

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RANDALL KEITH BEANE AND
HEATHER ANN TUCCI-JARRAF,

Defendants.

Case No.: 3:17-CR-82

VOLUME IV of VIII

JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE THOMAS A. VARLAN

January 26, 2018
9:04 a.m. to 4:32 p.m.

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Sean O'Malley - Continued Cross-Examination

1 (Call to Order of the Court)

2 THE COURT: Thank you. Good morning, everyone.

3 Bring our jury in, and you can continue with this
4 witness.

5 (Jury in at 9:04 a.m.)

6 THE COURT: Thank you. Everyone may be seated.

7 Good morning to our members of the jury. We'll
8 continue with the cross-examination of this witness.

9 **CONTINUED CROSS-EXAMINATION**

10 MS. TUCCI-JARRAF: Thank you. Without prejudice,
11 I'll proceed.

12 BY MS. TUCCI-JARRAF:

13 Q Good morning, Mr. O'Malley.

14 A Good morning.

15 Q Okay. Yesterday, when you were giving your direct,
16 as well as your cross, just to clear up, you had clarified that
17 banks -- excuse me, your statement before in your direct was
18 that banks are part owners, and during your -- is that correct?

19 A Shareholders.

20 Q That was your later clarification during your cross.
21 So during your direct, you said that they were part owners,
22 during the direct?

23 A Okay. If I said that, then I'm glad we clarified it.

24 Q Okay. And then during your cross with myself, you
25 clarified that by saying they have shares?

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Sean O'Malley - Continued Cross-Examination

1 A Correct.

2 Q Okay. So they're part shareholders?

3 A Yes.

4 Q Okay. And that indicates that there's other
5 shareholders. Who are those other shareholders?

6 A The capital at the Reserve Banks are the shares that
7 are put in by the reserves of the banks and only the banks.

8 Q Right. And you said that the banks were part owners
9 or part shareholders. Who are the other shareholders of the
10 Federal Reserve Bank?

11 A Well, there's hundreds of banks in each Reserve Bank,
12 so there would be many, many shareholders, all of which would
13 be depository institutions.

14 Q So the only owners of the Federal Reserve Banks are
15 other banks. Is that what you're saying?

16 A The shareholders of the Federal Reserve are banks,
17 yes.

18 Q Only banks?

19 A Yes, to my knowledge. And just to clarify, you know,
20 I'm an expert in payment systems and I'm an expert in fraud.
21 I'm not an expert in the structure of the Federal Reserve. I
22 mean, I've worked there for a long time, but, you know, there
23 is information on the website which would probably make it much
24 more clearer than I could make it for you today.

25 Q I appreciate that statement. So the statement as far

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Sean O'Malley - Continued Cross-Examination

1 as they're part owners, shareholders, part shareholders, to
2 make the statement, I'm asking you just to clarify those, and I
3 appreciate that, but to make a blanket statement like that --

4 A So to my understanding, all the shares are owned by
5 banks. But there's various banks. So the bigger banks would
6 have more shares. The smaller banks would have less shares.
7 That's my understanding.

8 Q And at the time that they fund those shares, they
9 become a member of the Federal Reserve System then? They're
10 considered members of the Federal Reserve Bank System?

11 A Correct. But not all banks have to be a member of
12 the Federal Reserve System.

13 Q Is USAA Bank a member of the Federal Reserve System,
14 a shareholder?

15 A I don't know.

16 Q Earlier you said that in your direct, you stated that
17 the U.S. government, that you are -- that the Federal Reserve
18 is a fiscal agent for the government. Correct?

19 A Correct.

20 Q And that the U.S. government issues U.S. securities
21 to fund itself?

22 A Treasury securities, yes.

23 Q And you've been in the legal department in financial
24 intelligence for approximately 19 years. Correct?

25 A Yeah. In the investigations area, yes.

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 Q Okay. And when you receive securities or that
2 possibly may be fraudulent, do you have to look behind in the
3 underwriting of those securities to determine whether a
4 monetary instrument is fraudulent or not?

5 A So I think what -- if you're talking about U.S.
6 Treasury securities, it's -- it's different than if it's a
7 commercial security, so commercial securities have
8 underwriters. In Treasury securities, they're just sold to the
9 public via the Fed Reserve selling it to primary dealers who
10 sell it onward down to others or to TreasuryDirect where
11 individuals who can purchase Treasury securities directly from
12 the government.

13 Q So it's the U.S. Treasury's responsibility to
14 package -- create and package those U.S. securities to -- for
15 the Federal Reserve to be able to fund themselves?

16 A For the Federal Reserve to sell --

17 Q Uh-huh.

18 A -- so that the funds that they receive from the
19 selling of the securities goes to help fund the U.S.
20 government, yes.

21 Q And those U.S. securities for the Fed Res sell, they
22 are required to have collateral within those securities?

23 A No.

24 Q So what do the U.S. securities actually consist of
25 then?

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 A The faith of the U.S. government.

2 Q You stated that individuals do not have accounts at
3 the Federal Reserve Banks. Correct?

4 A Correct.

5 Q Do U.S. citizens have accounts at the Federal Reserve
6 Banks?

7 A U.S. citizens?

8 Q Uh-huh.

9 A No individuals, whether they're U.S. citizens or
10 foreign citizens, have accounts at the Federal Reserve Bank.

11 Q What is a TreasuryDirect deposit account?

12 A TreasuryDirect is a system that they set up so that
13 individuals can purchase securities directly from the
14 government, from the U.S. Treasury without having to go through
15 a financial institution.

16 Q And where are those TreasuryDirect deposit accounts
17 held at?

18 A Where are they held at? Well, I'm sure that when
19 you're paying the funds, those -- those accounts that the
20 Treasury have would be held at one of the Federal Reserve
21 Banks.

22 Q One of the Federal Reserve Banks?

23 A Yeah.

24 Q And who manages those TreasuryDirect deposit
25 accounts?

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 A It's not clear to me who handles TreasuryDirect, but
2 different Reserve Banks have different responsibilities and
3 certain Reserve Banks are responsible for certain accounts with
4 the U.S. government, and how they're -- how that's determined
5 as to who's responsible, I'm not clear. I do know that the New
6 York Reserve Bank where I work is the ones that sell the U.S.
7 Treasury securities to the marketplace.

8 Q So Federal Reserve Bank of New York has
9 TreasuryDirect deposit accounts that they hold?

10 A So I want to distinguish between selling treasuries
11 to the primary dealers, which is --

12 Q I'm not asking about selling, because you said --

13 A So I --

14 Q I'm not asking about the settling, sir. You stated
15 when I said where the TreasuryDirect deposit account's held,
16 you said at one of the Federal Reserve Banks. And I asked you
17 who managed it, you weren't sure that there were -- each bank
18 had its responsibilities.

19 Okay. What I'm asking is, does the Federal Reserve
20 Bank of New York hold TreasuryDirect deposit accounts?

21 A I don't know.

22 Q So your 19 years at the Federal Reserve Bank and in
23 the legal department for foreign -- or financial intelligence,
24 you have never had to work on any fraud matters regarding a
25 TreasuryDirect deposit account?

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 A That's correct.

2 Q And who in your department actually does work any
3 kind of fraud with TreasuryDirect deposit accounts, if not you?

4 A To my knowledge, it hasn't come up in 19 years.
5 There's also -- we talked about Office of Inspector General, so
6 the Treasury Department has its own Office of Inspector
7 General. So they might be the people that would be involved in
8 those kind of investigations if they came up, so --

9 Q Uh-huh. Actually, you just reminded me of something.
10 Yesterday, when we were speaking about how you became aware of
11 this, after we were able to sort of ferret out, you had stated
12 that you were actually originally noticed about the larger ACH
13 problem by a Federal Reserve Bank office, the OIG, who was
14 there, who's actually physically located in the FRB. Who is
15 that agent?

16 A I don't recall offhand which agent.

17 Q How many OIGs are in the Federal Reserve Bank?

18 MS. DAVIDSON: Objection, Your Honor. At this point,
19 this line of questioning is irrelevant.

20 MS. TUCCI-JARRAF: Actually, it leads to --

21 MS. DAVIDSON: Your Honor, could we have a sidebar?

22 THE COURT: Well, let me hear the response to the
23 objection.

24 MS. TUCCI-JARRAF: The DOJ's whole case revolves
25 around the fact that these CDs, including the one that was

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 liquidated, and is the issue with USAA Bank in this matter,
2 that they received some kind of report, which they couldn't
3 produce, that the funding bank --

4 THE COURT: I don't want to interrupt you, but the
5 question is, what is the relevance of the question, how many
6 OIGs are in the Federal Bank? Why is that relevant?

7 MS. TUCCI-JARRAF: We're trying -- I'm trying to
8 figure out -- this gentleman says he can't remember who the
9 Federal Reserve Bank OIG was that notified him about all of
10 this, which led all the way down to Tennessee FBI.

11 THE COURT: Go ahead. We'll let -- go ahead. I'll
12 overrule for the time being. Just answer the question.

13 MS. DAVIDSON: Your Honor, may we have a sidebar?

14 THE COURT: Let's wait and -- let's wait for a few
15 more questions.

16 MS. TUCCI-JARRAF: Thank you.

17 THE COURT: Go ahead. Can you answer that question,
18 how many OIGs are in the Federal Bank?

19 THE WITNESS: There are multiple OIG offices. The
20 main headquarters is in Washington. There's agents in New
21 York. There's agents in Chicago. There's agents in Miami, and
22 there are agents in California. How many agents, I'm not sure.

23 BY MS. TUCCI-JARRAF:

24 Q Well, I'm asking you for the agent you said that was
25 in your office in New York. So how many are of the OIGs that

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 would -- that are in the New York Federal Reserve Bank office,
2 how many are there?

3 A There's only a few. There's approximately three,
4 but --

5 Q Three.

6 A -- but -- I think --

7 Q And you can't remember out of the three which one
8 actually --

9 A I think I got the call from Chicago.

10 Q So it was FRB Chicago OIG that actually contacted
11 you?

12 A No. So the -- so the Federal Reserve Banks don't
13 have OIGs. It's the Federal Reserve in Washington that has the
14 OIGs, and then --

15 Q Okay. So it was actually Federal Reserve Bank OIG in
16 Washington, D.C. that contacted you?

17 A I know it's semantics, but, you know, the FRBs or the
18 Reserve Banks, those are the 12 regional Reserve Banks. Okay.

19 Q Uh-huh.

20 A The Board of Governors is in D.C., so the Office of
21 Inspector General is, they're headquartered out of Washington.
22 So -- now, they have a satellite office in Chicago, and one of
23 the agents from that satellite office, I believe, is the one
24 who called me, and I can't recall the name. I think there
25 might have been two on the phone at the time. It was a

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 relatively brief call. Carolyn Working is one of the agents in
2 Chicago. She may have been on that call, but I'm not sure.

3 Q How do you spell her last name?

4 MS. DAVIDSON: Objection, Your Honor. How is this
5 relevant?

6 THE COURT: What's the relevance, Ms. Tucci-Jarraf?

7 MS. TUCCI-JARRAF: This goes to show lack of intent.
8 We have a number of questions as far as -- excuse me -- where
9 the report came from that Mr. Beane supposedly committed a
10 fraud. I'm trying to discover where that information is, and
11 nobody seems to have any reports from the Federal Reserve.

12 This gentleman here from Federal Reserve Bank New
13 York is claiming that he received a report of the fraud of this
14 particular case, and I'm trying to determine who actually holds
15 those reports. Because if they exist --

16 THE COURT: What's your response to that?

17 MS. DAVIDSON: Your Honor, we believe that this is
18 simply to harass the agent. The -- all of the agents which
19 she -- were identified yesterday during her cross have been
20 receiving multiple calls, the FBI -- and so we believe that
21 she's simply doing this to try to harass the various agencies.

22 THE COURT: Well, that may or may not be the case,
23 and I'm not sure that goes directly toward whether it's
24 relevant. And I question somewhat the relevance, but because
25 there was some questions on direct about the structure of the

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Sean O'Malley - Continued Cross-Examination

1 Federal Reserve, I'll allow limited inquiry from this point.

2 MS. TUCCI-JARRAF: Thank you.

3 THE COURT: And whatever -- if something is not
4 within the knowledge of this witness, then we move on.

5 MS. TUCCI-JARRAF: Of course.

6 THE COURT: Go ahead.

7 MS. TUCCI-JARRAF: Thank you.

8 BY MS. TUCCI-JARRAF:

9 Q Mr. O'Malley, how do you spell Carolyn's last name?

10 A I believe it's W-o-r-k-i-n-g.

11 Q W-o-r-k-i-n-g, Working?

12 A Yeah. To be clear, the call was about the ACH fraud
13 in general, not about Mr. Beane.

14 Q You had stated that Brad Carpenter in the Washington,
15 D.C. office at headquarters, at one point, you had said he had
16 informed you, and he knew about Mr. Beane's case. You had said
17 the first time you heard about Mr. Beane's case was actually
18 from Brad Carpenter in Washington, D.C. headquarters. That's
19 FBI. Correct?

20 A Yes. That's how I think it came to my attention.

21 Q And then you had stated he led you to Mitch Thompson?

22 A No, he didn't lead me to Mitch Thompson. I took the
23 liberty to call Mr. Thompson.

24 Q Look the liberty. And you had stated that he had
25 told you that it was being handled by Tennessee. Correct?

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 A Correct.

2 Q Okay. What do you mean by "being handled," just so
3 we have a clear --

4 A Meaning that his office was not -- his unit in the
5 New York office was not going to participate in any
6 investigation on Mr. Beane, because it was already being
7 handled by the FBI office in Tennessee.

8 Q So Mr. Thompson had already notified Knoxville FBI.
9 Is that correct?

10 A I think -- I don't know what Mr. Thompson did.

11 Q Okay. But he -- so it was his statement it's being
12 handled, not yours, that was his statement?

13 A Yeah.

14 Q Okay. Regarding -- let's go to the -- what steps did
15 you personally take -- you said you didn't know anything about
16 this case, as far as details, just that it existed on the 10th
17 of July. Correct?

18 A Correct.

19 Q Okay. And were you involved -- you said that there
20 were a number of issues with -- in similar scenarios as
21 Mr. Beane's that were occurring. Correct?

22 A Correct.

23 Q Were you involved in any kind of policies or actions
24 to be taken as far as handling these kinds of scenarios, like
25 Mr. Beane's?

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 A Well, I was working to try and limit the problems and
2 to try and make sure that everybody in this system who was
3 affected knew about it and that we were returning the ACH
4 credits in a timely manner so that there would be no loss to
5 the Fed Reserve.

6 Q I'm sorry, could you repeat that last --

7 A So that they would return the ACH credits -- we
8 talked about that you have two days to return them. We wanted
9 to make sure they were returned timely so that there would be
10 no loss to the Federal Reserve System.

11 Q Okay. So in this particular instance with Mr. Beane,
12 for example, is if there was not a return of the credits by
13 USAA, for example, that it would be a loss to the Federal
14 Reserve and not a loss to USAA. Is that correct?

15 A So I think the way you described it was not correct,
16 but if you'd like me, I will state how I understand that --

17 Q Let me go back then. Perhaps I misunderstood your
18 statement. You said that you're trying to limit problems and
19 the loss and trying to get everyone to return ACH credit. Who
20 would be returning ACH credits?

21 A The Federal Reserve. The Federal Reserve would
22 basically return the item as being -- that there's no account.
23 There's different reasons you can return an ACH. So if there's
24 no account that's there to be debited, then you can return it
25 for that reason, and you have to return it within a two-day

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 window.

2 Q So, then, ACH credits are given to USAA in this
3 particular instance. Is that what you're saying?

4 A So in this particular instance, USAA received a
5 credit, but basically what they did is they debited out of the
6 Ginnie Mae's securities account at the Federal Reserve Bank of
7 New York, and they pulled \$30.5 million out of the account in
8 30-some-odd tranches, and each one of those ACH debits that
9 were pulled out of the Ginnie Mae securities had to be returned
10 within a two-day window, and they were, so that USAA -- the
11 funds were taken back out of the USAA account, put back in the
12 Ginnie Mae securities account, and there was no loss to the
13 U.S. government.

14 Q What is Ginnie Mae securities account?

15 A That is the account -- the routing number of the
16 account that was debited.

17 Q Okay. So each routing number of all 12 Federal
18 Reserve Banks, they all go to the Ginnie Mae's securities
19 account?

20 A No. So the ACH fraud started out by people looking
21 up Federal Reserve routing numbers and using those routing
22 numbers to debit or pull money out of those routing numbers.
23 It morphed into looking for any U.S. government routing number
24 and then they started pulling it from the various different
25 routing numbers that we talked about, U.S. -- the Federal

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 Reserve being the fiscal agent for the U.S. government.

2 In this case, we're the fiscal agent for the U.S.
3 government, and one of those accounts for the U.S. government
4 was the Ginnie Mae securities routing number, and that's what
5 USAA, they pulled it out of that account.

6 Q Okay. Routing numbers are assigned -- it's a
7 transfer. Correct? A routing number is the actual road, for
8 instance, from one destination to another. Correct?

9 A Each financial institution will open what's known as
10 a master account at the Federal Reserve. That master account,
11 during the process of obtaining the master account, they have a
12 routing number. They'll get a routing number assigned, and
13 that routing number is effectively the bank account number that
14 the financial institution has at the Federal Reserve.

15 Q So you're saying that each routing number in the Fed
16 Res System of routing numbers is basically a master account for
17 specific banks?

18 A No. Because you could -- so I'll just tell you, I'm
19 not exactly clear as to how the routing numbers are assigned.
20 Okay. But what I do know is that when you open a master
21 account at the Federal Reserve, if a financial institution is
22 attempting to open it, they'll have to provide their routing
23 number, and then they will request privileges to have access to
24 certain services.

25 So it could be check-clearing services, it could be

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 ACH services, it could be wire transfer services. So that's
2 all part of the master account opening process. So when we're
3 talking about Ginnie Mae, they have a master account, and
4 that's maintained at the Federal Reserve Bank of New York.

5 Q My understanding in this particular instance is that
6 this routing number that was apparently used was actually the
7 routing number assigned to the Federal Reserve Bank of New
8 York?

9 A That's not correct. It's -- the routing number was
10 for Ginnie Mae securities, and the Federal Reserve Bank of New
11 York was the fiscal agent for Ginnie Mae, and Ginnie Mae
12 securities is part of the U.S. government.

13 Q So you're aware of on the Federal Reserve Bank's
14 website, each of the 12 Federal Banks are listed. Correct?

15 A Yeah.

16 Q Okay. And with each one, there's a routing number
17 that is assigned to each of the individual Reserve Banks. Are
18 you familiar with that?

19 A Yeah. There might be more than one routing number,
20 but yeah.

21 Q I'm just talking about the one the Federal Reserve
22 actually lists next to each Federal Reserve Bank. Are you
23 familiar with that?

24 A I know it's available on the website, yeah.

25 Q And you were saying the routing number that is

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 assigned to Federal Reserve Bank New York, that you list on the
2 Federal Reserve Bank website for New York -- or for the Federal
3 Reserve Board, that that number is solely the Ginnie Mae
4 securities account, master account routing number?

5 A No. What I'm saying is, that the Federal Reserve,
6 each one of them will have their own routing number, and
7 different agencies within the U.S. government will also have
8 their own routing number, and different agencies within the
9 Federal Reserve will be assigned to particular Reserve Banks
10 for -- that they'll be responsible for particular agencies in
11 the U.S. government. One of those agencies is Ginnie Mae, and
12 the New York Reserve Bank was responsible for Ginnie Mae
13 securities. And that account number was debited or money was
14 pulled out of it by USAA. And Mr. Beane's name was on the --
15 each one of those ACH debits.

16 Q So then the actual Ginnie Mae securities account that
17 you're saying, the master account number routing number that
18 was used, that it's actually Ginnie Mae that loses on the ACH
19 credits, not the Federal Reserve?

20 A Well, the Federal Reserve might have been responsible
21 if they didn't return it within the two-day window.

22 Q Okay. Your earlier statement during this morning was
23 that you were trying to limit the problem so there would be no
24 loss to the Federal Reserve?

25 A Yeah. Or their customers.

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 Q Inside of those TreasuryDirect deposit accounts that
2 are held at the Federal Reserve, such as Ginnie Mae security
3 account, would that be one of them?

4 A No. You're confusing TreasuryDirect with routing
5 numbers. They're totally separate.

6 Q Was the Ginnie Mae accounts and the assets that are
7 in there, are those part of the U.S. securities that are
8 wrapped -- or excuse me, created and then wrapped by the U.S.
9 Treasury Department?

10 A To my knowledge, and I'm not an expert in the Ginnie
11 Mae securities, that Ginnie Mae provides insurance for
12 securities to be sold in the marketplace.

13 Q That's why I said wrap, an insurance wrap around the
14 security.

15 A Yeah.

16 Q So just so that we can understand, how is it that a
17 security -- explain to me what a Social Security -- the Social
18 Security number is on the Social Security cards.

19 A I don't think I'm --

20 Q The Treasury doesn't deal with anything having to do
21 with an identifier, the Social Security number?

22 A The Treasury does, but the Federal Reserve does not,
23 so I'm not qualified to discuss that.

24 Q So did the U.S. Treasury --

25 A Excuse me?

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 Q It's the U.S. Treasury that deals with those
2 particular cards and those particular identifiers?

3 A Well, I think it's the Social Security
4 Administration, but, again, it's not the Federal Reserve.

5 Q So in your 19 years in financial intelligence, have
6 you ever worked on a case that included a fraud regarding the
7 Social Security numbers before the ACH was -- let me go back.
8 Okay. Before the ACH was created, which is just a digital of
9 actually having to do paperwork, correct, the paperwork
10 process? It digitized the paperwork process?

11 A Well, if you're saying that they're digitizing it so
12 that they could reduce check clearing, I guess that's fair to
13 say. I mean, it's an alternative to clear funds.

14 Q Well, prior to ACH existing, okay, or any transfer
15 systems, prior to someone from USAA, for example, if they had a
16 particular payment that was being made, that would have to be
17 pulled from the Federal Reserve. Okay. They would walk it to
18 a discount window at the Federal Reserve. Correct?

19 A I think you're confusing a bunch of different terms.
20 No. No. The discount window is where institutions borrow from
21 the Federal Reserve. It's -- but if you're asking how things
22 would have been processed in -- you know, checks get cleared
23 and the Federal Reserve, years and years ago in the '60s or
24 whenever you're talking about, each Reserve Bank would clear
25 checks for the institutions that they maintained accounts for.

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 Q And they would do that manually. Correct?

2 A In the 60s, I would imagine so, yeah.

3 Q Okay. So the ACH system was to basically make that
4 process easier and faster?

5 A Make payments easier and faster, yes.

6 Q Right. And I apologize, you're right. The
7 Treasury -- excuse me, the discount window is for the borrowing
8 and exchanging monetary instruments, so that's completely
9 different.

10 So the Federal Reserve, when they do the sale
11 contracts for the United States of U.S. securities, do you do
12 any other sale contracts for any securities that involve U.S.
13 citizens?

14 A Can you repeat the question? I'm sorry.

15 Q You stated that you do sell contracts for the U.S.
16 securities for U.S. Treasury. Correct?

17 A I don't think that's what I said. I said that we
18 have the markets group at the New York Fed sells U.S. Treasury
19 securities out into the marketplace.

20 Q Uh-huh.

21 A Okay.

22 Q And that you're only responsible for selling those,
23 not creating them or patching them, that would be U.S.
24 Secretary of Treasury?

25 A I'm not clear on the mechanics of it.

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 Q Okay. So the Federal Reserve Bank of New York
2 doesn't sell any other securities where U.S. citizens are the
3 collateral.

4 A No, they don't get involved in any -- I don't know of
5 any security with U.S. citizens as collateral.

6 Q You had stated in your direct yesterday that the
7 Federal Reserve was a federal instrumentality created by
8 Congress. Is that correct?

9 A Correct.

10 Q And who created Congress?

11 A I don't know. You'd have to go back to the 1700s, I
12 guess, you know.

13 Q You don't want to say the U.S. people, the Americans?

14 A Our founding fathers, I guess, you know. And they
15 were part of the U.S. -- the people of the United States.

16 Q Okay. You said that the FedACH does investigations
17 of fraud and internal as well as external?

18 A Repeat that again. I didn't --

19 Q Yesterday, you testified that --

20 A Yeah.

21 Q -- the Federal Reserve does fraud investigations or
22 investigations for internal matters?

23 A That my unit does, yeah.

24 Q Okay. As well as external matters?

25 A Yes.

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 Q Okay. And this one with Randall Beane would be
2 deemed an external matter?

3 A Correct.

4 Q And when did you actually find out about the details
5 of this particular case with Mr. Beane?

6 A So when you talk details, I knew of the general
7 details in July of 2017, and I knew about the specific details
8 in January 2018.

9 Q When you say "general details," what do you mean by
10 that?

11 A I knew that he used USAA to pull funds out of an
12 account that the U.S. Federal Reserve Bank of New York
13 maintained, and I knew it was in the millions of dollars, tens
14 of millions of dollars, and I knew that the Federal Reserve
15 Bank of New York returned those as deemed inappropriate, there
16 were no account to be debited, so we did not incur a loss. But
17 I understood that USAA had actually allowed him to break the
18 CDs and issued funding to his personal account, which was used
19 to buy an RV.

20 Q So you're saying that with USAA, when they went to go
21 and credit that account, they had no way to know whether the
22 account existed on -- at the Federal Reserve Bank or not?

23 A So they knew an account existed, because you had to
24 have a routing number that was active to try to debit those
25 funds out of. But when you talk about an account at Ginnie Mae

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 securities, because that was the routing number that was used,
2 yeah, the system doesn't -- the system won't know whether the
3 account is valid or not, or whether there's funds in the
4 account or not.

5 So that's why you have that two-day window, so that
6 if -- if there is no account or if there's no funds in the
7 account of a valid account, that the financial institution that
8 was debited has two days to return it and say, "No, that was an
9 appropriate debit, give me my money back."

10 Q Okay. And that's just specifically using a routing
11 number that sits in Ginnie Mae -- or excuse me, that Ginnie Mae
12 has at the Federal Reserve Bank New York?

13 A That's what Mr. Beane did with the Ginnie Mae routing
14 number, yeah.

15 Q I'm asking in general, Ginnie Mae's routing number,
16 have you seen the routing number that supposedly was used in
17 this case?

18 A Yeah.

19 Q And you're saying that that routing number is a
20 routing number assigned to Ginnie Mae -- Ginnie Mae securities
21 account, which is a master account for the U.S. government?

22 A One of the master accounts, yeah.

23 Q Now, when they do a -- when someone goes in and does
24 a routing number, they have to have an account name as well.
25 Correct?

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 A Again, I'm -- the creation of routing numbers, I'm --

2 Q I'm not asking about the routing number, I'm asking
3 about in your ACH system --

4 A Yeah.

5 Q -- they have to put a routing number. Why don't you
6 tell us, when they do the ACH, what do they have to put in?

7 A So when you create a master account, you're providing
8 your routing number to the Federal Reserve, along with your
9 name, and then you'll request different services. FedACH is
10 one of the services that you can request.

11 Q Uh-huh. Now, when they're this master account, when
12 it's being used and they want to pull credit from the account
13 that's sitting at Federal Reserve Bank of New York, they use
14 the routing number, and then they have to give an account
15 number that is a subaccount inside of the master account. Is
16 that what you're saying?

17 A Yes. So if you're trying to execute an ACH, you'll
18 have to provide the routing number of your financial
19 institution, and then your account number at that financial
20 institution.

21 Q And that account name that would be put in, that
22 would be a subaccount listed under the master account?

23 A From the Federal Reserve's perspective, it would be a
24 subaccount. From the financial institution, it would just be
25 an account of their customer.

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 Q Okay. So let me make sure I got this right. Routing
2 number is assigned to the actual institution in order to access
3 and pull credit from the ACH -- using the ACH system from the
4 Federal Reserve Bank New York?

5 A No. I wouldn't describe it that way.

6 Q How would you describe it?

7 A So a routing number is assigned to a financial
8 institution. That process, I'm not clear as to how that
9 process gets executed. Okay.

10 Q Uh-huh.

11 A Separately, if you have -- if your financial
12 institution or a government agency, and you have the routing
13 number that's assigned to you, you can request privileges to
14 have different types of services at the Fed Reserve. And that
15 would be wire transfers, ACH, check clearing, things like that,
16 and once you do that, if you are approved for those services,
17 then you would have a terminal and you could engage in
18 different financial transactions, including ACH.

19 So once you're approved, then you're in the Federal
20 Reserve System, and then other institutions can send your money
21 or you could send them money. And if you are approved for ACH,
22 then other financial institutions would have the ability to
23 debit funds out of your account unless that feature was
24 disabled.

25 Q Okay. And for myself and for everyone else, when you

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 say a master account, obviously, it indicates that there's
2 something less than master accounts within it. Correct?

3 A Yeah. So there's -- so a master account -- let's say
4 a big bank like Bank of America, right, they will have their
5 master account at their Reserve Bank, which is probably Federal
6 Reserve Bank of Richmond. Okay. But a big bank like that
7 might have a hundred routing numbers. So they might have
8 different routing numbers for different branches. All of those
9 routing numbers would be, in theory, funneled back up to the
10 master account.

11 Q So any time that they would go in and put in one of
12 those, for instance, a Bank of America, Knoxville, it would
13 have its own routing number. Correct?

14 A So I don't know for sure. We're talking
15 hypothetically. Bank of America in Knoxville could have a
16 different routing number than Bank of America in Charlotte,
17 yeah.

18 Q Okay.

19 A But then if it did, then it would be part of -- in
20 effect, it would be a subaccount of the master account.

21 Q So would that also be in connection with an ABA
22 number then, American Banking Association number on the master
23 account?

24 A Yeah. So we've been talking about routing numbers.
25 When people talk about ABA routing numbers, it's the same

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 thing.

2 Q Okay. So in order to get from the individual bank's
3 routing number that gets funneled up to the master routing
4 number, as you stated -- did I state that correctly of what you
5 had stated?

6 A Yeah. I think -- it's getting probably more
7 complicated than it needs to be, because if the subaccount, if
8 the Knoxville branch of Bank of America that we're describing,
9 they would have -- that routing number itself would have
10 different privileges.

11 So that would -- that account, if you would put an
12 ACH debit to that routing number, it would effectively come out
13 of that routing number. And then all the different routing
14 numbers of Bank of America ultimately at any end of year
15 accounting period would flow back up into a master account,
16 because they would have a bunch of different balances.

17 Just like you had different bank accounts at the same
18 bank, you know, the total of -- if you had \$3,000 in three
19 accounts in the same bank, yeah, there's only \$3,000 in each
20 bank, but if you were looking at it, at your net worth, you'd
21 have \$9,000 in that one bank.

22 Q So when they go in and do the actual -- to make
23 payments at USAA Bank, for instance, they go in and they have
24 to actually -- for an external account, they actually have to
25 put in the routing number of the institution, as well as an

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 account name?

2 A And number.

3 Q And then account number?

4 A Correct.

5 Q Three things?

6 A Yeah.

7 Q Okay. And the ACH system, if you don't have the
8 routing number, it automatically rejects it. Correct?

9 A Correct.

10 Q Okay. And if you don't have the right account name,
11 does it instantly reject it?

12 A No, it doesn't. It would actually process the
13 transaction as if there was an account number, and then there
14 will be the two-day window for the bank that's -- that the
15 funds were taken out of to come back and return that prior
16 debit as -- they return it as saying there's no account, so
17 they would pull the money back.

18 Q Okay. So if they put in the wrong account number,
19 okay, not the routing number or the name of the account, but if
20 they put in the wrong account number, would it automatically
21 reject it or would that be processed for two days?

22 A No. It gets processed, yeah, for the two-day period.
23 Because they wouldn't know whether the account number is valid
24 or not. It's the financial institution, that money was taken
25 from them, they have to determine whether the account is valid

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 or not.

2 Q Okay. And the Federal Reserve, when you get, it's
3 not instant that you receive this information from the -- the
4 ACH receiving bank or the one that's pulling the ACH, you don't
5 receive that information for two days, or do you receive it
6 immediately and it takes two days to process?

7 A So my understanding is that since the Federal Reserve
8 runs the system, the Reserve Banks that are responsible for
9 their own routing number for the U.S. government as a fiscal
10 agent, they would know that on the same day.

11 And so in many cases, I think in most cases, you
12 know, the rejects would be on the same day, but they have two
13 days to legally pull it back without incurring a loss. If they
14 waited longer than two days and the money was paid out
15 inappropriately, then they would try to pull it back, but they
16 might not be able to do it. They might have to go to court.

17 You know, so the way that the ACH rules are, is it
18 provides the institution that was debited a two-day window to
19 pull it back so that they won't be at a loss if they return it
20 within that two-day window.

21 Q So, for instance, if USAA waits more than two days,
22 it takes that much longer for it to be processed, like if they
23 batch it at a certain time each day and you're not getting that
24 batch request through the ACH transfer system, then it takes
25 longer to process. Is that correct?

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Sean O'Malley - Continued Cross-Examination

1 A No. I think the two-day window, regardless of
2 whether it was processed in the morning or processed in the
3 afternoon, that two-day window gives financial institutions a
4 proper time frame to determine whether the account is valid,
5 whether the account is funded properly, and if not, then they
6 can reject it.

7 Q Okay.

8 A Or return it.

9 Q Sounds like a huge vulnerability is being discovered
10 regarding ACH payments, settlements, and has allowed a risk of
11 these type of situations, like Mr. Beane's and others who are
12 not familiar with the banking system, sounds like there's a lot
13 of vulnerability there that's inherent in the system.

14 Would you say that's an accurate statement?

15 A The system is created for legitimate transactions and
16 processes, huge volumes of money on behalf of commercial
17 entities every day. And like many things, if you've -- you're
18 trying to scam a system, you might be able to find a
19 vulnerability to utilize, and, yeah, I think that's what
20 happened in this case.

21 But the system is set up, you know, if you have a --
22 if you try to complete a perfect system to stop all frauds,
23 then you can't really help the economy. So there's a balancing
24 act.

25 Q Yeah. This is sort of where this whole thing sort of

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Sean O'Malley - Continued Cross-Examination

1 revolves around. It would take someone to know the ACH system
2 and know that it takes -- that there's a window there for that
3 two-day settlement period. They would have to actually know
4 how the ACH system works and the settlement periods to be able
5 to pull off some kind of scam like that, wouldn't they?

6 A I don't know. I mean, I think -- I don't know what's
7 in the minds of the people who do it.

8 Q If someone didn't know how the actual system worked
9 for ACH and the facts -- actually, didn't you provide --

10 MS. DAVIDSON: No, that's not him.

11 MS. TUCCI-JARRAF: Who was that?

12 MS. DAVIDSON: Those exhibits which I provided were
13 not provided by him.

14 MS. TUCCI-JARRAF: You handed them with the wire.

15 MS. DAVIDSON: It was just timing. He provided the
16 wire. Our expert witness prepared the exhibits.

17 MS. TUCCI-JARRAF: Oh, okay. I didn't know that.

18 MS. DAVIDSON: And he's coming later.

19 MS. TUCCI-JARRAF: Okay. I didn't know that.

20 BY MS. TUCCI-JARRAF:

21 Q Would you say, sir, someone that didn't know about
22 how the ACH system actually worked, between pulling and
23 crediting and all that, that it's not easily something that
24 hasn't been a problem since ACH existed. Is that correct?

25 A That has or has not been a problem?

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 Q I'll strike it. Let me rephrase. I apologize. How
2 long has the ACH system been in place?

3 A I don't know for sure.

4 Q You don't know for sure?

5 A No.

6 Q Did it not exist while you've been in your 19 years
7 at the Federal Reserve?

8 A I believe it's probably existed for the whole 19
9 years I've been there.

10 Q The whole 19 years?

11 A Uh-huh.

12 Q So in that 19 years, the Federal Reserve Bank System
13 and its members have never experienced this sort of a situation
14 like Mr. Beane's or, you know, the thousands, tens of thousands
15 that have occurred since July. Is that correct?

16 A So the individual instances --

17 Q Right.

18 A -- I'm sure happens all the time. Okay. But
19 wholesale attempts, if you will, like whether it's many people
20 trying to do the same scam at the same time, I believe happened
21 once before.

22 Q Once before?

23 A Uh-huh.

24 Q Do you remember when?

25 A I think it was a couple years ago, within the last

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 five years, I think.

2 Q Within the last five years?

3 A Uh-huh.

4 Q And it was like this, it was the same kind of
5 scenario, pulling, and it not getting caught within that
6 window?

7 A A lot of people were, you know, just like this, you
8 know, things get put out on the Internet, and all of a sudden,
9 you get a lot of people trying to do the same scam. And it was
10 some sort of a scam that a -- I'm not familiar with
11 specifically the details, but my understanding is that people
12 said it was a free -- you could get free phone or something
13 like that, that -- some program that didn't exist, but they
14 said President Obama had created it, and they gave a routing
15 number of a small financial institution in the northeast and
16 that institution was -- was hit with thousands of ACH debits.

17 Q Were those ACH debits that you just spoke about
18 during this particular scam, is that the Obama phone that
19 you're talking about?

20 A I believe that is, yeah.

21 Q Okay. During that, were they doing the same kind of
22 processes which you are seeing happening now, since July?

23 A I wasn't involved in that case, but my understanding
24 is it's similar.

25 Q It's similar, where they were using Social Security

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Sean O'Malley - Continued Cross-Examination

1 numbers?

2 A No, no. I'm sorry. I don't know that -- I don't
3 know the details, so -- I just know that they were using ACH
4 debits, and that financial institution was -- their routing
5 number was used as part of the scheme.

6 Q Okay. So that --

7 A As opposed to --

8 Q Thank you for clarifying that.

9 A Yeah, as opposed to U.S. government routing number.

10 Q All right. Because that would be pretty significant
11 if they were using Social Security numbers as well as account
12 names and then a legit routing number? That's why I was asking
13 the same details.

14 A Yeah. I don't know the details about that one.

15 Q Okay. So in this particular case, in this instance,
16 Mr. Beane's case, you said, had come on the radar because of
17 the significant amounts that had been accessed. Correct?

18 A Correct.

19 Q Okay. And the only amounts you haven't been able to
20 recover, supposedly RV -- the funds that were used for the RV.
21 Is that correct?

22 A So no. From the Federal Reserve's point of view, we
23 returned all of those items within the two-day window. So any
24 loss is on USAA. The loss is not on the Federal Reserve with
25 Ginnie Mae securities.

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Sean O'Malley - Continued Cross-Examination

1 Q Okay. So this -- and I'll take you to, I believe
2 it's Government Exhibit 164.

3 This is the wire, Fedwire information that you had
4 provided?

5 A Yeah.

6 Q Okay. And, David, would you be able to -- okay.
7 Thank you.

8 So, Mr. O'Malley, just so that we can go through this
9 and understand it, because obviously there's a vulnerability
10 here, and there are a lot of people at risk, would you say
11 there's a lot of people at risk due to the scam?

12 A A lot of -- a lot of financial institutions are at
13 risk.

14 Q What about the individuals who believe it's not a
15 scam and the information that they're relying on is accurate,
16 would you say they're at risk too?

17 A I would say that the people who are initiating the
18 scam are not victims, they're the perpetrators.

19 Q I would agree with you, but I'm saying the ones that
20 are actually relying on information that was released regarding
21 the process?

22 A Well, if it's released by some guy on a YouTube
23 video, there's no reason to believe it's accurate. We've got
24 frauds and scams section on our website. We've got a report
25 fraud e-mail box. We get calls from the public and e-mails

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Sean O'Malley - Continued Cross-Examination

1 every day, and we answer these types of questions all the time.
2 So people -- they should know better than to follow a guy on a
3 YouTube video as opposed to calling the Reserve Bank to see if
4 this is a real issue or not.

5 Q Right. But -- would you say banking, the actual
6 industry of banking is transparent?

7 A Well, you know, you --

8 Q Let me rephrase that. That might be a little too
9 general. Would you say that the actual inner workings, such as
10 ACH, would you say that that is transparent to the people about
11 how it works?

12 A There's information out there, but it's a complex
13 system, so it's probably not clear to most people.

14 Q And would you say that how money is created and
15 funded and borrowed, that that is transparent to all the people
16 in America?

17 A That's probably a little too broad for me to answer.

18 Q Okay. Let me restate that. How the Federal Reserve
19 and its member banks do the ACH credits and the ACH pulls, is
20 that transparent to the America people, how that works?

21 A I think most people understand the mechanics of it,
22 you know, that they can send a payment to their utility or
23 they're getting a direct deposit in their paycheck, but the
24 inner workings and the mechanics of it, they probably don't
25 know, and they probably don't really care that much as long as

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 it gets done.

2 Q And you had stated that, you know, some guy who puts
3 out a YouTube video, that -- would you state -- would you say
4 that it's a correct statement that a lot of info is put out
5 there regarding the Federal Reserve that is incorrect?

6 A Yeah. There's lots of conspiracy theories about the
7 Federal Reserve.

8 Q Would you say there's a lot of info put out on the
9 Internet regarding the Federal Reserve that is accurate?

10 A When the Federal Reserve puts it out, yeah. If you
11 go to the Federal Reserves websites, either the Board of
12 Governors, which is where the one exhibit we talked about was
13 posted, or any of the Reserve Banks, there's -- there's a vast
14 amount of information as to how the system works. It's just a
15 matter of whether people want to take their time to look at it
16 and research it.

17 Q So like a Federal Reserve circular, would that be
18 considered something put out by the Federal Reserve?

19 A Yeah.

20 Q A circular? Are you familiar with the Federal
21 Reserve circular "Money Mechanics" put out by Chicago Federal
22 Reserve Bank?

23 A No.

24 Q You're not familiar with the "Money Mechanics"
25 circular?

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 A There's plenty of circulars that are put out all the
2 time, so you're describing one, no, I don't know it.

3 Q This particular circular is one of the most famous
4 amongst, let's say, grassroots movements and the people that
5 are actually looking at this particular scam that you -- that
6 initiated this whole entire action starting in July of 2017.

7 A So if you showed me the circular, I --

8 Q Okay.

9 A -- I may or may not have seen it before. You know,
10 I've been involved in a lot of frauds against the Federal
11 Reserve, and there's a lot of pieces of information that people
12 take and then try to use it to support, you know, their
13 position to facilitate a scam.

14 Q So you've reviewed the video from Harvey Dent? You
15 had stated you'd seen the YouTube video.

16 A There's -- Harvey Dent put out many videos, but, yes,
17 I've seen some of the videos.

18 Q I'm -- I will narrow that down. Have you seen the
19 video that Harvey Dent supposedly put out on July 1st, 2017
20 regarding use your secret accounts?

21 A I've seen Harvey Dent talking about using your secret
22 account at the Federal Reserves. I don't know what the date of
23 the YouTube video was.

24 Q Okay. Was it around July 1st that this ACH problem
25 started to be incurred?

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 A It was in the first few days of July, yeah.

2 Q And was it just the Federal Reserve Bank of New York
3 that experienced this issue or was it all 12 of the Federal
4 Reserve Banks?

5 A It was actually only about half of them. Because --
6 well, we're not really sure why, but we speculate that -- I
7 believe that the person who goes by the name of Harvey Dent
8 talked about looking at your Social Security card and flipping
9 it to the other side, and then I think that there was a number
10 on the other side of the Social Security card, and he said that
11 that number relates to the Federal Reserve Bank in -- that
12 maintains your account. This is the scam that he -- you know,
13 the theory that he was putting out.

14 It may be that the number only went up to six.
15 Because it looked like the Federal Reserve in the regions, I
16 believe, one through six or one through seven seemed to
17 experience that problem. And the other ones, like the Twelfth
18 District is San Francisco, I don't think that they -- they had
19 many ACH frauds like that at all.

20 Q There's some of the Federal Reserve Banks that don't
21 even offer ACH services. Is that correct?

22 A Yeah.

23 Q Like Virginia, the one in Virginia doesn't --

24 A No, that's not --

25 Q -- do ACH?

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 A No. So you have to clarify. That's not accurate.
2 All of the Reserve Banks would participate in the ACH program,
3 because FedACH, it's a service that the Federal Reserve System,
4 all 12 banks participate in. Just like Fedwire, it's all -- so
5 the ACH program is for all Reserve Banks, you know, and their
6 customers, as is Fedwire.

7 Now, as we talked about before, certain -- you know,
8 if you're a customer of the Federal Reserve, and you're opening
9 an account, that master account that we talked about. You have
10 to ask, you know, the specific services you request, so there
11 might be some financial institutions that don't have access to
12 ACH, but that's because they weren't granted it when they
13 opened their account.

14 Q Okay. In their membership, you mean when they bought
15 their shares?

16 A No. Unrelated, that's when they -- because they
17 might not be a member, but they could still process
18 transactions.

19 Q Okay. So in specific regards to their master
20 accounts, you're saying. Okay. Thank you for that
21 clarification.

22 Now, you stated when this Harvey Dent video had come
23 out, that the public in general should have called the Federal
24 Reserve, they shouldn't just have believed it?

25 A Well, I think a lot of people were just greedy, and

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Sean O'Malley - Continued Cross-Examination

1 they just figured they could make a quick buck, so they didn't
2 really want to find out if it was real or not. They just went
3 after it and they tried to grab the money.

4 And so people initially, when you look at the
5 responses, right, they were all excited, because, you know, if
6 they were paying their credit card or auto loan, it looked like
7 the balance was paid, because the financial institution that
8 executed the transaction, we talked about, they don't know if
9 the other side is good or not, so they got credit for that --
10 for that ACH. And it wasn't until two days later that it was
11 returned, so then later on, they realized, oh, it didn't work,
12 but initially they thought it did work.

13 Q You called them greedy and for most of the --

14 A I said many of these people were just greedy, yes.

15 Q And in their greediness, they went to go pay off all
16 their debts, their utilities, their mortgages, their cars?

17 A Some people were doing that, and other people were
18 buying RVs. You know, there's lots of different reasons that
19 you could do.

20 Q So if someone believes that they were actually
21 accessing funds that belonged to them, you would call that
22 greedy, you would call that a fraud?

23 A Well, certainly fraud. I mean, these accounts didn't
24 exist, you know.

25 Q Well, fraud requires intent to steal something from

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 someone else. Correct?

2 A I think if you -- if you --

3 Q If fraud -- fraud requires intent.

4 A Yeah.

5 Q That someone wants to steal something from someone
6 else, doesn't it?

7 A Yeah.

8 Q Okay. If these people believed that the funds that
9 they were using actually belonged to them, there's no intent to
10 fraud possible. Correct?

11 A I don't -- I can't identify each individual person
12 what was their intent or not, but if you look at --

13 Q I'm not saying --

14 MS. DAVIDSON: Objection, Your Honor. He needs to be
15 able to answer.

16 THE COURT: Let him finish his answer. Go ahead.

17 THE WITNESS: Well, when I look at that video, it
18 does not seem plausible to me. I look at it and say, this
19 is -- this is such a scam. So could there be some people that
20 were so gullible? I guess they could be. But I think the vast
21 majority of people were just looking and saying, "We're going
22 to scam the system."

23 BY MS. TUCCI-JARRAF:

24 Q Uh-huh. You're familiar with TARP, correct, the
25 program that they had regarding the mortgage industry from

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Sean O'Malley - Continued Cross-Examination

1 U.S. -- U.S. Treasury to be able to help people with their
2 homes. Do you remember that in 2009, 2010?

3 A So I know of different mortgage programs.

4 Q And this specific one was to help the people come out
5 of mortgage difficulties, it was a mortgage assistant program.
6 Is that correct?

7 A That's a Treasury program. I wasn't involved in it.

8 Q Fair enough. Thank you. And, in fact, trillions of
9 dollars have gone missing from the Federal Reserve, which the
10 whole public is finding out about now.

11 A Can you say that again?

12 Q That trillions of dollars throughout the years here
13 have gone -- the Federal Reserve cannot account for trillions
14 of dollars, where it went?

15 A I have no idea what you're talking about.

16 Q Would you state that -- or would you say that it's
17 correct to state that there are a lot of Americans that feel
18 the Federal Reserve and the banking institution in general are
19 not acting in good faith?

20 A I think that there's a lot of misinformation out on
21 the Internet, which could cause people to believe that the
22 government is not acting in good faith.

23 Q And what steps have you -- if you're aware of any
24 steps that have been taken to assist the people to understand
25 that you are acting in good faith?

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Sean O'Malley - Continued Cross-Examination

1 A We have a public information department that -- we
2 have people come in for tours every day at the Federal Reserve.
3 I mean, we try to have outreach to the public. You know,
4 whether we're as effective as we'd hoped to be is, I guess,
5 debatable.

6 Q When you say outreach to the public, is that in
7 putting out announcements that there's a scam, you know, is
8 that having FBI go arrest people without explaining the issue
9 to the people?

10 A So --

11 Q What kind of steps?

12 A The steps, we do -- you saw some of the notice from
13 the Federal Reserve public website, yeah, that's one way to do
14 it. You know, that might reach the most people if they're
15 doing it.

16 But as I mentioned before, we got a report for an
17 e-mail box that we get inquiries every day. Could be dozens of
18 people a day that, excuse me, will send inquiries to us, and we
19 respond that way as well.

20 Q Well, my concern is that you have this problem, you
21 say, is huge. I mean, obviously, Randall Beane's case, you
22 said, stuck out more. The big ones always do. Correct?

23 A Uh-huh.

24 Q Okay. How many people do you think watched that
25 initial video that got sent out by Harvey Dent?

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Sean O'Malley - Continued Cross-Examination

1 MS. DAVIDSON: Objection, Your Honor.

2 MS. TUCCI-JARRAF: If you know.

3 MS. DAVIDSON: Relevance.

4 MS. TUCCI-JARRAF: It goes to lack of intent.

5 THE COURT: I'll sustain the objection. Not sure of
6 his personal knowledge in any event, so I'll sustain the
7 objection.

8 MS. TUCCI-JARRAF: That's why I asked if he was
9 aware. Okay.

10 BY MS. TUCCI-JARRAF:

11 Q How many cases if -- are you aware of how many cases
12 the Federal Reserve is testifying in regarding situations
13 similar to this one with Mr. Beane?

14 A Well, are you asking me about scams, you know,
15 involving the Federal Reserve, or are you asking me about the
16 ACH scenario that occurred in July of 2017?

17 Q I'm talking about this particular one, and we'll --
18 I'll go ahead and make this as clear as possible. Let me find
19 the exhibit. Is it Exhibit 164, please. Oh, that's this one.
20 The other exhibit, the notice. 162, please.

21 Okay. This is an official announcement that you went
22 over with Ms. Davidson yesterday?

23 A Yes.

24 Q Okay. Is this the only thing that you've put out
25 regarding this particular scam?

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Sean O'Malley - Continued Cross-Examination

1 A No. This notice is on the Federal Reserve Bank of
2 New York's website, the Federal Reserve Bank of Atlanta's
3 website and maybe other Reserve Banks as well.

4 Q Okay. Do they all basically say the same thing or
5 similar to?

6 A Similar to.

7 Q Similar to.

8 A The --

9 Q Okay. This is much -- can you read this to me,
10 please? Read it from the record, here, the big paragraph, just
11 so that we can go over what it says here and then the
12 difference between what you've explained here in court --

13 THE COURT: Well, let me -- just to keep things
14 moving along, I think he read it yesterday, so -- and it's in
15 front of him and --

16 MS. TUCCI-JARRAF: Okay.

17 THE COURT: -- the jury, so why don't --

18 MS. TUCCI-JARRAF: I'll go --

19 THE COURT: -- you go ahead and ask a specific
20 question.

21 MS. TUCCI-JARRAF: A specific one.

22 THE COURT: Thank you.

23 BY MS. TUCCI-JARRAF:

24 Q It says here, "The Federal Reserve does not maintain
25 accounts for individuals. Individuals should not make attempt

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 to make payments using Federal Reserve Bank routing numbers or
2 false routing numbers." Correct?

3 A That's what it says, yeah.

4 Q Okay. That's a lot more -- it's pretty vague
5 compared to the information you shared with us yesterday as
6 well as today regarding how the actual payment -- if you could
7 bring up example -- or excuse me, Exhibit 164 -- how you
8 explained to us regarding this pull came in for the OMAD to
9 actually go out, the payment from the pull that USAA had made,
10 that it takes two days. I mean, you gave us a lot more detail
11 here. Correct?

12 A Okay. So I need to clarify. 164 is a wire transfer.
13 It's not an ACH, so that was not pulled at all. That was
14 initiated from USAA by Mr. Beane sending it to somebody. There
15 was no ACH pull on this.

16 Q And that's correct. Thank you for making that
17 clarification between the wire. So when there's an ACH pull,
18 is there a small report that's made for every ACH pull, similar
19 to this one?

20 A Yes. There -- well, it would be different, because
21 it's an ACH rather than wire transfer, yeah.

22 Q Okay. But there would be a report like this one, but
23 to the specific information for the ACH transaction. Correct?

24 A Correct.

25 Q Okay. And so there would be a report for each of the

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Sean O'Malley - Continued Cross-Examination

1 31 plus transactions or CDs that Mr. Beane tried to --

2 A So when you say "report," I mean, you know,
3 everything is electronic, right, so, you know, you can create a
4 report that -- there's no report like at the end of the day
5 there's a report that would be, all right, this is a Randall
6 Beane report, this is a Sean O'Malley report, you know -- you
7 know, but if you're asking, can you extract information from
8 the ACH system to identify how many debits were pulled by USAA
9 on behalf of Randall Beane from the Ginnie Mae account, yeah,
10 that's -- that's possible.

11 Q Okay. And since there's a fraud investigation that
12 your office is doing regarding the ACH issues that started in
13 July of 2017, about how many reports do you believe actually
14 have been created due to this scam?

15 A Well, the reports in general were on how many ACH --
16 unauthorized ACHs occurred at each routing number. You know
17 what I mean, like when you've got tens of thousands, you're not
18 really looking at an individual level, you're looking at big
19 chunks of information as to how -- what patterns are you
20 seeing.

21 Q In order to deem this a large scam that would
22 potentially put the Federal Reserve at loss, would you use
23 however many reports are coming in for ACH pulls like that,
24 would you consider that -- that volume of numbers to determine
25 whether it's a significant scam or a lesser scam?

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Sean O'Malley - Continued Cross-Examination

1 A You'd have the ability to sort it by the bigger ones
2 versus the smaller ones, yeah.

3 Q Would you consider this particular scam to be one of
4 the largest that have occurred in the Federal Reserve's history
5 or a specific time period of history?

6 A Certainly for the July 2017 ACH scam, this was very
7 large.

8 Q Uh-huh. And did it include people from all over the
9 United States doing this particular scam?

10 A I believe so.

11 Q Did the Federal Reserve Bank receive a lot of calls
12 from a lot of people trying to determine if it was real or not?

13 A Not as many as you think, but, yeah, there was --

14 Q Did the Federal Reserve Banks get a number of calls
15 from people asking what return meant or trying to confirm their
16 accounts, these, quote, unquote, TDA accounts, did they try to
17 call them?

18 A There were some people that called because they --
19 they were -- the items were returned.

20 Q And when they did call regarding that, did you make
21 that same explanation that you did yesterday and today as far
22 as how ACH transaction actually worked, that, for instance,
23 USAA Bank wouldn't know that those accounts didn't exist for at
24 least two days? Did you make that explanation to them?

25 A So I didn't have any calls personally.

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Sean O'Malley - Continued Cross-Examination

1 Q Okay. Are you aware if anyone in the Federal
2 Reserve, do you have a task force that's dealing with that?

3 A I have people that spoke to others, and I think
4 more -- it was more along the lines of -- there is no account,
5 it does not exist, so therefore, you know, it was an invalid
6 attempt to pull the money out.

7 THE COURT: We're going to take a break at this time.

8 MS. TUCCI-JARRAF: Thank you.

9 (Jury out at 10:26 a.m.)

10 THE COURT: How much longer do you anticipate with
11 your cross?

12 MS. TUCCI-JARRAF: Well, right now I'm just going
13 in -- I would say probably maybe another hour.

14 THE COURT: How long was the direct?

15 MS. DAVIDSON: Far less than an hour, 30 minutes.
16 What was it?

17 THE COURT: All right.

18 MS. TUCCI-JARRAF: I'm going into the intent that
19 there is no intent, there's a fraud not only committed on the
20 Federal Reserve and possibly member banks, but also on the
21 people, such as Mr. Randall Beane.

22 THE COURT: We spent a lot of time on matters that
23 have been mildly relevant, and --

24 MS. TUCCI-JARRAF: This goes to --

25 THE COURT: -- under -- let me finish. Under Rule

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Sean O'Malley - Continued Cross-Examination

1 611, the Court can exercise reasonable control over the mode
2 and order of examining witnesses, including, but not limited to
3 the amount of time that a witness is examined. And the Court
4 has to weigh, you know, there are other witnesses to be
5 presented in this trial, both by the government and perhaps by
6 one or both defendants, so I don't know if I'll let you go an
7 hour, but I'll probably hold you to no more than an hour, so
8 keep that in mind as you ask your questions.

9 MS. TUCCI-JARRAF: Thank you.

10 THE COURT: All right. We'll take a recess.

11 MS. DAVIDSON: Your Honor, can I bring up one --

12 THE COURT: Yeah. Before we do, go ahead.

13 People in the audience can be seated, if you'd like.

14 You can step down, sir.

15 MS. DAVIDSON: Your Honor, I briefly mentioned the
16 fact that many calls have been received by various individuals
17 that were identified during her cross-examination, and I wanted
18 to alert the Court that I will continue to object to the fact
19 finding of who people work with, because we do believe that
20 it's simply an attempt to harass the various agents.

21 THE COURT: Well --

22 MS. TUCCI-JARRAF: Do you want me to respond?

23 THE COURT: Respond.

24 MS. TUCCI-JARRAF: I have no intent to harass anyone.
25 I'm going in to figure out why Mr. Beane -- because a lot of

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Sean O'Malley - Continued Cross-Examination

1 the -- my actions were based on the actions that were done
2 against Mr. Beane, which is why I inserted myself in. I'm
3 trying to figure out why these things were done, by who, so
4 that we can get the correct information. That's all.

5 THE COURT: All right. We'll come back --

6 MS. TUCCI-JARRAF: So I know who to subpoena.

7 THE COURT: Come back at 10:45. We'll give you to
8 11:30 to finish your cross, then we'll go to Mr. Beane for
9 cross-examination.

10 And remind you, Mr. Beane, as I did at the final
11 pretrial conference, that while you heard Ms. Tucci-Jarraf say
12 she's inquiring of certain matters pertaining to you relevant,
13 she believes, to her defense, that you are representing
14 yourself, you face counts above and beyond what
15 Ms. Tucci-Jarraf faces, and potential punishment, depending on
16 the jury's verdict, above and beyond what Ms. Tucci-Jarraf may
17 face.

18 So just keep that in mind, that you are, while the
19 questions she's asking may be relevant to your defense in your
20 mind, you have the right to ask whatever questions you want in
21 terms of representing yourself. In fact, you have a right to
22 object to questions that Ms. Tucci-Jarraf may ask.

23 You understand all that?

24 MR. BEANE: I do.

25 THE COURT: Okay. Let's take a recess. We'll give

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Sean O'Malley - Continued Cross-Examination

1 Ms. Tucci-Jarraf till 11:30, then we'll pick up with
2 Mr. Beane's cross-examination, and then see if there's any
3 redirect. Thank you.

4 THE COURTROOM DEPUTY: This honorable court shall
5 stand in recess.

6 (Recess from 10:30 a.m. to 10:46 a.m.)

7 THE COURTROOM DEPUTY: Please remain seated and come
8 to order.

9 THE COURT: We'll bring our jury back in.

10 (Jury in at 10:47 a.m.)

11 THE COURT: Thank you. Everyone may be seated.
12 Continue cross-examination.

13 MS. TUCCI-JARRAF: Thank you. Without prejudice,
14 I'll proceed.

15 BY MS. TUCCI-JARRAF:

16 Q Okay. Mr. O'Malley, we were discussing about the
17 scam, the specific scam in July of 2017.

18 A Okay.

19 Q Okay. Is that scam still being done?

20 A It's -- I can't say it isn't being done at all, but
21 the volume dropped dramatically.

22 Q Do you know about when the volume dropped?

23 A It was very high for about a month or so.

24 Q Did you say this particular scam was initiated by
25 this video that Harvey Dent -- that someone called Harvey Dent

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Sean O'Malley - Continued Cross-Examination

1 put out, the initial video on July 1st?

2 A There's a high probability, the linkage, yeah.

3 Q Okay. High probability of linkage, you said?

4 A Yeah.

5 Q Thank you. During these particular transactions that
6 were being processed over to the Federal Reserve in the same
7 manner as what occurred in this particular case, certain codes
8 would have been given. You stated in this particular case, it
9 was a return code. Is that correct?

10 A Correct.

11 Q How many codes do you have for -- are there different
12 codes than just a return code?

13 A No. There's different types of return codes.

14 Q Okay. Different types of return codes. Do you know
15 approximately how many kinds of return codes there are?

16 A I don't.

17 Q Would one of those return codes be "account does not
18 exist -- "account does not exist"?

19 A Yeah. I believe that was R03, the code itself.

20 Q R03?

21 A I think, so yeah. And I think that that's the code
22 that was used on Mr. Beane's, all the transactions that were
23 returned for Mr. Beane.

24 Q Is that in regards to the CDs funded by ACH?

25 A Right.

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Sean O'Malley - Continued Cross-Examination

1 Q Okay. Because, obviously, the Fedwire one that you
2 brought in is a completely different system?

3 A Totally different system, yeah.

4 Q Okay. Is there a return code limited participation?

5 A What -- say that again.

6 Q You stated that there were different return --
7 different codes for the type of return?

8 A Yeah.

9 Q Correct?

10 A Correct.

11 Q Is there a code -- a return code described as limited
12 participation?

13 A Not that I know of.

14 Q So you're not aware of any other kinds of return
15 codes other than account does not exist?

16 A Insufficient funds.

17 Q Any others?

18 A I'm sure there were others, but I don't know.

19 Q So those are the only two that you know of. In broad
20 cases regarding ACH, have you come across any other types of
21 returns for fraud?

22 A Not that I can recall.

23 Q Okay. Let's get back to the -- on July 1st, you had
24 this massive video go out, that, as you stated, it was about a
25 month of heavy transactions using this particular process that

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Sean O'Malley - Continued Cross-Examination

1 was outlined in that video. Is that correct?

2 A That's correct.

3 Q Okay. And I said around 300,000. Those are just the
4 ones I knew about. You stated 10,000 -- tens of thousands. Is
5 that correct?

6 A Yeah.

7 Q Okay.

8 A At least tens of thousands, yes.

9 Q At least tens of thousands. Thank you. And those
10 tens of thousands involved just average, ordinary, day
11 Americans, is that correct, per your knowledge?

12 A So there were a lot of people who participated. It
13 wasn't just all from one individual, so -- but I don't know
14 about the other individuals.

15 Q Okay. There were at least -- per your knowledge,
16 there was at least tens of thousands of people involved in
17 those transactions, though?

18 A Well, tens of thousands of transactions. There could
19 be -- in many instances, I think a lot of the people executed
20 multiple transactions.

21 Q Okay.

22 A But it was a substantial number of individuals.

23 Q Individuals. Are you aware of whether they had seen
24 this video by Harvey Dent?

25 A I don't know.

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Sean O'Malley - Continued Cross-Examination

1 Q Okay. Did the Federal Reserve take any action to
2 take this video off of YouTube?

3 A Yes. There were discussions with the FBI and the
4 folks who control YouTube, yeah.

5 Q To control YouTube or --

6 A Well, control the posting, you know, the people -- I
7 think it was -- I didn't initiate the call, but I know that
8 there were discussions about it. And I think eventually they
9 did take the videos down or some of the videos down anyway.

10 Q Was the person that made that particular -- to the
11 best of your knowledge, was that person that made that video,
12 was he interviewed by the Federal Bureau of Investigation or
13 someone from your financial intelligence unit?

14 A I don't know. Certainly not from my unit.

15 Q Do you know whether the individual going by the name
16 of Henry -- Harvey Dent who made that video or that he was
17 arrested?

18 A I don't know whether he was or not.

19 Q Well, it's been pretty clear from the data that you
20 have shared with us that there was an inherent vulnerability in
21 the ACH system. Would that be an accurate statement?

22 A I would say that these individuals exploited a
23 vulnerability in the system, yeah.

24 Q I'm not -- I'm going to get to that question in a
25 moment. I'm asking, is it evident that there was a

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Sean O'Malley - Continued Cross-Examination

1 vulnerability inherent in the system at this time?

2 A Again, I don't know if I agree with your term
3 "vulnerability." The system is created to help speed commerce.
4 So if you stop all ACH debits, that can impact financial
5 transactions very significantly.

6 Q If someone can go in with just a routing number and
7 put in whatever account name and account number in there, and
8 it will process, and it has to be caught within that two-day
9 window, you would -- would you consider that an inherent
10 vulnerability in the system?

11 A Again, we talked about, you know, there's -- you have
12 to weigh the benefits of the system versus how people can
13 exploit the system. So that's the way the system was created,
14 that there's a two-day window, you have a two-day window to
15 catch an inappropriate transaction.

16 Q So are you saying that the Americans that
17 participated, whether knowingly or unknowingly, in a scam were
18 actually the vulnerability?

19 A No. I'm not --

20 Q Because either it's vulnerabilities in the system or
21 it's someone with knowledge of how that system actually works.

22 A The system is created to speed commerce, right. And
23 if you -- if you're going to try and stop all potential fraud,
24 you could shut down, you know, the ACH system. But that
25 doesn't benefit anybody. Right? This is a system that's used

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Sean O'Malley - Continued Cross-Examination

1 by millions and millions of people, you know, on a regular
2 basis. So, you know, that's the way the system was designed,
3 and that two-day window is the -- provides the opportunity for
4 false transactions to be returned.

5 Q So the -- it appears from your testimony that it's
6 just the actual routing number, which aren't all routing
7 numbers published somewhere on the Internet for each -- excuse
8 me, each bank in America as well as the Federal Reserve Bank?

9 A They're very well-known -- they're widely distributed
10 on the Internet, yeah.

11 Q Uh-huh. So just from having the correct routing
12 number, someone would be able to pull off this scam effectively
13 unless their -- the banks caught it. Is that correct?

14 A Just --

15 Q Repeat that?

16 A Rephrase or repeat it, yeah.

17 Q Maybe I can make it clearer, because there might be a
18 structural issue there. If someone had just the routing
19 number, a valid routing number, even with incorrect account
20 name and incorrect account number, they would be able to, at
21 least for a period of time, make that pull using the ACH
22 system?

23 A They could direct their financial institution to
24 execute the ACH debit, if that's what you're saying. The
25 answer is yes, except for the scenarios in which some -- some

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Sean O'Malley - Continued Cross-Examination

1 routing numbers may have the ACH debit disabled, so absent
2 that, yes, it would go. But most -- most institutions won't
3 have it disabled.

4 Q So at the individual Federal Reserve members or
5 participating ACH -- excuse me, ACH participants, they would
6 have to turn the ACH -- disable it on their end. Is that
7 correct?

8 A They would ask the Fed to disable the ACH feature on
9 their account, yeah.

10 Q Was that done sometime from July 2017 onward by --
11 were any applications made by ACH participants to shut it off
12 until they could situate a solution?

13 A So the Fed did shut off many of the routing numbers
14 that were being used. They shut many of them off for ACH
15 debit, yeah.

16 Q Was that the only action that was taken as far as
17 system management to be able to stop immediate abuse of the ACH
18 system?

19 A No. We also reached out to others, you know, so
20 PayPal, the fraud people in PayPal, and others to notify them
21 of the fraud, because a lot of the traffic was being processed
22 through the PayPal system and others.

23 Q So you only reached out to institutions or ACH
24 participants in order to deal with stopping the scam at that
25 point?

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Sean O'Malley - Continued Cross-Examination

1 A Well, we also notified the public by putting it on
2 the website, yeah.

3 Q And that would be the notice that we just went over?

4 A That was one of the notices, yeah.

5 Q Okay. I believe that was 162 or 4. Yes. That one,
6 thank you. Exhibit 162.

7 In here, you don't state -- in here, is there stated
8 anywhere details that you've gone over with us? Because as far
9 as the process of how the fraud actually occurs, step by step,
10 from entering in an account name, a routing number and all of
11 that, all the way to the pull and the returns, is there that
12 information here so the public can be aware?

13 A The information here would make it clear that anybody
14 who wanted to execute that type of transaction, that it's
15 inappropriate.

16 Q All right. So if there's a fraud going on, a true
17 fraud going on, and you have individuals who over the years
18 have -- would you say there's individuals over the years who
19 have a certain attitude towards the Federal Reserve that is
20 negative to the Federal Reserve?

21 A Yeah. I'm sure there are, yeah.

22 Q Okay. And, in fact, I believe you have specific
23 terms for those types of movements. Is that correct?

24 A Can you expand?

25 Q For example, sovereign citizens would be one. Is

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Sean O'Malley - Continued Cross-Examination

1 that correct?

2 A Yeah.

3 Q What are some others?

4 A I can't come to -- none come to my mind right now.

5 Q And what is a sovereign citizen?

6 MS. DAVIDSON: Objection, Your Honor.

7 MS. TUCCI-JARRAF: I wasn't going to --

8 THE COURT: Well, as I understood the question, the
9 objection is?

10 MS. DAVIDSON: What is -- the objection is relevance.
11 I'm sorry, Your Honor.

12 MS. TUCCI-JARRAF: I haven't finished the question.

13 MS. DAVIDSON: Okay.

14 THE COURT: What's your question?

15 MS. TUCCI-JARRAF: Okay. In the Federal Reserve's
16 knowledge and belief, how do they define a sovereign citizen
17 for that particular movement that you made us aware of?

18 MS. DAVIDSON: I'm still -- relevance is my
19 objection.

20 MS. TUCCI-JARRAF: That's actually part of the
21 state's whole case has been that Mr. Beane is a sovereign
22 citizen. So I think it is highly relevant.

23 THE COURT: I haven't heard anything about that in
24 this trial.

25 MS. TUCCI-JARRAF: It was in the briefings.

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1 THE COURT: We're only dealing with the evidence in
2 the trial. I haven't heard any evidence presented in that
3 regard, so I'll sustain the objection.

4 MS. TUCCI-JARRAF: Okay.

5 THE COURT: Remind the jury, again, that the
6 evidence, for purposes of your upcoming deliberation purposes,
7 and I've told you this before, is confined to the evidence
8 presented within the context of this trial and the four corners
9 of this courtroom. Thank you.

10 Go ahead, Ms. Tucci-Jarraf.

11 BY MS. TUCCI-JARRAF:

12 Q So I guess my question is, why did the Federal
13 Reserve not include the American people in making them aware of
14 what was going on as far as being the solution?

15 A I think we did. We attempted to.

16 Q So threatening -- in this particular announcement
17 that you gave us, you had read the part, law enforcement,
18 including the Federal Bureau of Investigation, is aware of the
19 scheme, and individuals who participate in such schemes could
20 also face criminal charges.

21 Is that what you refer to as including the people and
22 being the solution to stop this?

23 A So as I said, we've got frauds and scams section on
24 the New York Fed's website. We've got the Board -- notices at
25 the Board of Governors. We've got -- the Atlanta Fed had

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1 notices. There were many notices that went out to the public.
2 We've got an e-mail that folks were using to report fraud. We
3 had outreach. Whether we could have done a better job, maybe
4 we could have.

5 Q In your opinion -- or excuse me, not in your opinion,
6 but based on your knowledge of how many American U.S. citizens
7 there are, do you think that they could have been included more
8 in assisting to stop this scam if they knew this information
9 that you went over yesterday and today?

10 MS. DAVIDSON: Objection, Your Honor. Relevance.

11 MS. TUCCI-JARRAF: It goes to intent. If people knew
12 what actually was going on, they'd be able to help stop it
13 instead of believing or having the belief that this wasn't even
14 a scam, but it was actually real.

15 THE COURT: That may be appropriate for closing
16 argument, but I think that's more argument. I think you've
17 asked sufficient questions to make that argument if you'd like
18 to make it. So I'm going to sustain the objection to the
19 question as presented.

20 BY MS. TUCCI-JARRAF:

21 Q I just have a few more questions. Thank you.

22 Mr. O'Malley, the ACH as of September 15th, the
23 ACH -- the Federal Reserve announced that the ACH system would
24 be doing same-day settlements. Correct?

25 A I don't know the exact date, but I know they were

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 moving towards that, yes.

2 Q That they would be -- excuse me, let me rephrase that
3 then. That the Federal Reserve announced that starting
4 September 15th, 2017, ACH settlements could be done same-day
5 settlement?

6 A So I'm just telling you my personal knowledge as I
7 know that they're moving towards the same-day settlement. I
8 don't know where they are in that process.

9 Q Okay. And also, in fact, isn't it true that New York
10 Federal Reserve Bank, President Dudley, William Dudley
11 announced that he was retiring on November 6th, 2017?

12 A His intent to retire in 2018, yes.

13 Q Yes. And that was announced on November 6th, 2017?

14 A That sounds like around the time period. I don't
15 know the exact date.

16 Q Okay. And you're familiar with the Federal Reserve
17 board members in Washington, D.C. Is that correct?

18 A Not personally.

19 Q But you're aware of who they are?

20 A I believe so.

21 Q Okay. And isn't it correct that Stanley Fischer from
22 the Board of Governors announced that he's retiring on
23 October 13th, 2017?

24 MS. DAVIDSON: Objection, Your Honor. Relevance.

25 MS. TUCCI-JARRAF: It goes to intent.

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Sean O'Malley - Continued Cross-Examination

1 THE COURT: What is the relevance of if and when the
2 current chairman of the Federal Reserve may be retiring?

3 MS. TUCCI-JARRAF: Because their retirements -- part
4 of my case is that the retirements are due to this very case
5 and all the other cases regarding a fraud that actually was
6 committed on the people and not the people on the Federal
7 Reserve.

8 THE COURT: I don't think there's been any proof in
9 that regard, and I'm not sure the relevance of that. But
10 anyway, I'll sustain the objection to the question at this
11 time.

12 MS. TUCCI-JARRAF: Let me just check to see if I have
13 any further questions. I have one last question.

14 BY MS. TUCCI-JARRAF:

15 Q Isn't it true that some of these ACH settlement
16 issues similar to this one in the Randall Beane case, that it
17 actually took longer than two days, and in some instances, it
18 took weeks and up to a month to actually catch those particular
19 transactions?

20 A So to my knowledge, the Federal Reserve and the U.S.
21 government did not sustain any losses, and the returns were
22 done in the proper two-day time period.

23 If you're asking me whether commercial entities were
24 harmed during this process and that they didn't return in a
25 proper time period, it's quite likely that that happened, but I

UNITED STATES DISTRICT COURT

Sean O'Malley - Continued Cross-Examination

1 can only respond for my -- my personal knowledge of -- in the
2 Federal Reserve, and I don't think that happened here.

3 Q So you're stating that anything over a two-day
4 process would have been the responsibility and the fault of the
5 institution that enacted the first ACH transfer?

6 A No. I don't think it's -- the responsibility is on
7 the person who executed the transaction, from my point of view,
8 okay. Now, legally, if you're talking about an institution
9 that pulled funds from another financial institution, the one
10 that funds were pulled from has two days to respond. Right?
11 And let's say they responded on the third or fourth day. If
12 that money had not been paid out yet, and they might be able to
13 still get that -- those funds returned, but if that institution
14 that pulled the money out had already paid out to their
15 customer, and the funds were gone, then the bank that did not
16 act within two days is probably going to have incurred a
17 financial loss.

18 Q Okay. So the Federal Reserve System, including
19 Federal Reserve Bank of New York doesn't engage in any
20 fraudulent behavior at all?

21 A Not to my knowledge.

22 Q Okay. And the Federal Reserve Bank of New York and
23 the Federal Reserve System, to the best of your knowledge,
24 doesn't engage in human trafficking at all?

25 MS. DAVIDSON: Objection, Your Honor.

UNITED STATES DISTRICT COURT

Sean O'Malley - Cross-Examination

1 MS. TUCCI-JARRAF: I'm just asking a question,
2 please.

3 MS. DAVIDSON: Relevance.

4 THE COURT: I see the question. I'll sustain the
5 objection to relevance.

6 MS. TUCCI-JARRAF: Thank you. I have no further
7 questions.

8 THE COURT: Thank you.

9 Cross-examination, Mr. Beane?

10 **CROSS-EXAMINATION**

11 BY MR. BEANE:

12 Q Mr. O'Malley, you stated earlier with your -- in your
13 cross with Ms. Tucci-Jarraf that you testified that because I
14 had purchased an RV that I was considered to be greedy. Is
15 that correct?

16 A I don't think that's exactly what I said.

17 Q You don't think that's exactly what you said?

18 A No. I don't recall using those words.

19 Q What was it that you said about being greedy?

20 A I said a lot of the people who were executing this
21 scam were greedy.

22 Q But you mentioned an RV in that?

23 A Yeah, yeah, that was the RV that you purchased.

24 Q So that would allude to the fact that you considered
25 me to be greedy?

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Sean O'Malley - Cross-Examination

1 A You could -- I did not say those words.

2 Q But you alluded to that?

3 A If you want to link them, then you can link them, but
4 I did not use those words.

5 Q Do you know anything about me other than the fact
6 that I purchased those CDs through USAA?

7 A I know nothing about you, other than that.

8 Q Thank you. And are all people who purchase RVs in
9 your eyes greedy?

10 A No. The vast majority of them are fine citizens, I'm
11 sure.

12 Q Have you ever been homeless, Mr. O'Malley?

13 A I have not.

14 Q Is it possible that actually I was being wise in
15 purchasing an RV to have a home to call my own for the first
16 time in my life?

17 A If you used it with your own funds, that would have
18 been fair.

19 Q Did I -- and if I felt like those funds were mine,
20 would that not be a legitimate reason to purchase the home?

21 A The funds were used --

22 Q Just answer the question.

23 A So repeat the question.

24 Q If I felt like those funds were legitimately mine,
25 would I be wise in purchasing a home?

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Sean O'Malley - Cross-Examination

1 A If those were legitimately your funds, you would be
2 free to use them for any purpose you want.

3 Q Another question. You haven't made it very clear
4 just how many people like myself have been arrested out of the
5 tens of thousands who have accessed accounts that they felt
6 like were legitimate. Could you make that clear to me?

7 A I don't know the numbers.

8 Q Are you the fraud investigator?

9 A So, remember, the Federal Reserve doesn't have
10 jurisdictions over individuals. That would be the FBI, so --
11 or the local police.

12 Q Have you made calls to the FBI to have other people
13 arrested?

14 A I've made calls to the FBI to tell them about the
15 scam so that they could open investigations or that they were
16 at least aware of it, yeah.

17 Q Could you give us a average number of how many calls
18 you might have made to have people arrested?

19 A So you're linking the arrest. What I'm saying is to
20 open an investigation -- so, you know, I don't direct this
21 person to be arrested, that person. It's -- there is a crime
22 going on, which I want to make sure you are -- you have
23 knowledge of it. And because of that, you may -- "you" being
24 the FBI -- may want to open up a criminal investigation on it.

25 Q Are you aware that no one contacted me and asked me

UNITED STATES DISTRICT COURT

Sean O'Malley - Redirect Examination

1 if I felt like these funds were legitimate or not, or are you
2 just assuming that I was scamming?

3 A As you said before, I know nothing about you or --

4 MR. BEANE: Right. Thank you. No further questions.

5 THE COURT: Thank you.

6 Any redirect?

7 MS. DAVIDSON: Yes, Your Honor.

8 **REDIRECT EXAMINATION**

9 BY MS. DAVIDSON:

10 Q Okay. The Treasury deposit accounts, okay, as I
11 understood your testimony, these are the accounts of the United
12 States Treasury?

13 A I think the term that we -- that was used before was
14 TreasuryDirect.

15 Q Okay. But she kept saying Treasury deposit accounts.
16 What are Treasury deposit accounts?

17 A I don't know if I know that term itself, so --

18 Q So is that -- that's not a real term?

19 A Not to my knowledge.

20 Q Okay. And so the real term that you told us about,
21 what was that, regarding the securities? This is how I
22 understood your cross, is -- and, again, they always tell you
23 not to ask a question you don't know the answer to, but here
24 goes.

25 Okay. The Treasury -- the United States Treasury can

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Sean O'Malley - Redirect Examination

1 sell its own securities directly to the United States citizens?

2 A They can through TreasuryDirect, yeah.

3 Q Okay. Through TreasuryDirect. And then when they
4 sell those securities, they deposit the money that they
5 received from those securities in one of the Federal Reserve
6 Banks?

7 A I'm sure they do, because the Treasury has their
8 accounts at the Federal Reserve. I just don't know which
9 Reserve Bank.

10 Q Okay. And so in order to -- who controls the money
11 in the Federal Reserve that the Treasury has deposited based on
12 these securities that are purchased by other people?

13 A So there will be Treasury officials who have the
14 rights and responsibility to direct the Fed to execute
15 financial transactions on their behalf. So each agency will
16 have people who are authorized to do that.

17 Q Okay. And so no individual, like me with my Social
18 Security, do I -- am I authorized to somehow go to the Federal
19 Reserve, even if I have a Treasury deposit or a Treasury
20 security certificate, am I authorized to go get my money
21 directly from a Federal Reserve?

22 A No. You --

23 Q So I would sell my security, isn't that how I would
24 get my money?

25 A Right. So you either have your securities with a

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Sean O'Malley - Redirect Examination

1 brokerage account or you would have your securities with
2 TreasuryDirect, which is directly with the Treasury. And you
3 would request that financial institution to sell your
4 securities, and then they would send you a check or -- if you
5 directed them, possibly you could have a wire transfer sent to
6 your account.

7 Q Okay. So you would sell the security that you owned.
8 You couldn't just put in a routing number and pay all your
9 bills?

10 A That's correct. That's --

11 Q Okay. And so there's a little discussion about the
12 Harvey Dent video. And you said that you reviewed the Harvey
13 Dent video telling people to pay all their bills?

14 A Yes, I've seen it.

15 Q And instructed people to pay their bills. Is that
16 correct?

17 A Generally pay your bills, pay your mortgage, pay your
18 car loans, things like that.

19 Q Did it mention anywhere in there to buy CDs and cash
20 them?

21 A Not that I'd seen.

22 Q Okay. And so in the very essence of the Harvey Dent
23 video, you have to believe somewhere there's a secret account.
24 Is that true?

25 A That's what he's telling people.

UNITED STATES DISTRICT COURT

Sean O'Malley - Redirect Examination

1 Q So the secret account that you didn't earn, this
2 mystery account?

3 A Yes.

4 Q Okay. And so you can call the Federal Reserve to see
5 if you have a secret account, can't you?

6 A Yes, you can.

7 Q And so do you have to understand ACH transactions to
8 know whether or not you have \$31 million?

9 A I don't believe so, no.

10 Q And so if you have been informed that your ACH
11 transactions have been returned, is it reasonable to try to
12 leave with your assets that you purchased with those ACH
13 transactions?

14 A No. Because that would show that you didn't actually
15 have those funds.

16 Q Okay. Do you believe that -- you've seen this video.
17 Do you believe that someone who went to law school and was
18 trained as a lawyer would know how to research whether or not
19 there were secret accounts?

20 A I would think that they would. I would think that at
21 least they could call the Federal Reserve.

22 Q Exactly. Because it's easily accessible?

23 A Correct.

24 MS. DAVIDSON: That's all I have.

25 THE COURT: Thank you.

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Sean O'Malley - Recross-Examination

1 Any recross based upon the redirect?

2 MS. TUCCI-JARRAF: Yes.

3 **RECROSS-EXAMINATION**

4 BY MS. TUCCI-JARRAF:

5 Q Without prejudice, I have a few questions for you,
6 Mr. O'Malley.

7 Ms. Davidson just brought up the TreasuryDirect
8 deposit accounts, and is it a fair statement to say that the
9 people who do the scam incorrectly call them a TDA or
10 TreasuryDirect account?

11 A I don't know.

12 Q Okay. You said that you saw the video, though.
13 Correct?

14 A I did. I don't remember that part of it.

15 Q Okay. And regarding these secret accounts that
16 Ms. Davidson just questioned you on, what's your understanding
17 as far as these secret accounts?

18 A There are no secret accounts.

19 Q Okay. To the best of your knowledge, is there any
20 commandeered value -- illegally commandeered value?

21 A I don't understand the question.

22 Q In those TreasuryDirect deposit accounts that we
23 discussed earlier, is there any illegally commandeered value in
24 those accounts that possibly belong to the people.

25 A So to make sure we're talking on the same wavelength,

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Sean O'Malley - Recross-Examination

1 the TreasuryDirect accounts that I was talking about are true
2 actual accounts that the Treasury allows people to buy U.S.
3 Treasury securities through the web. They'll create an account
4 for the individuals.

5 If you're talking about some other TreasuryDirect
6 account related to the videos, then those accounts don't exist.

7 Q You brought up a good point, because TreasuryDirect
8 accounts are what you described where you can sign up and you
9 can buy directly U.S. securities from the U.S. Treasury?

10 A Correct.

11 Q You also -- you and I have both talked about the
12 TreasuryDirect deposit accounts are completely different
13 account with the U.S. Treasury?

14 A Okay. So I don't -- if I understood when we were
15 talking initially that if you were saying that if somebody
16 wanted to buy U.S. Treasury securities through TreasuryDirect,
17 that they would send a check in and then that check would be
18 negotiated at a Federal Reserve, and it would be put in an
19 account for the U.S. Treasury.

20 I thought that that's what we were talking about. So
21 if you thought I was talking about something differently, then
22 we should explore it.

23 Q Okay. Well, then, that was the -- I think that's
24 where the issue may be. I'm not talking about TreasuryDirect
25 accounts, which is what you've just described?

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Sean O'Malley - Recross-Examination

1 A Right.

2 Q I was talking about TreasuryDirect deposit accounts.

3 A And if it was referenced in the Harvey Dent video,
4 then no such accounts exist, so I don't --

5 Q No. TreasuryDirect deposit accounts were not
6 discussed in that video. He was talking about TreasuryDirect
7 accounts, which are a completely different thing, and then,
8 yes, there would be some kind of fraud. But an average
9 individual wouldn't know that, would they?

10 A Frankly, I'm very confused. It sounds, to me, like
11 you're talking about the same term for two different types of
12 transactions. So I -- we need to clarify.

13 Q Okay. TreasuryDirect account is what you've just
14 described multiple times, which apparently was what we were
15 talking about yesterday when I thought we were talking about
16 something different.

17 A Okay. So we'll keep that to the side.

18 Q Okay. TreasuryDirect accounts exist. Correct?

19 A The ones that I described exist, yes.

20 Q Okay. Is there such a thing called TreasuryDirect
21 deposit account?

22 A If it's not -- if it's not the same TreasuryDirect
23 that I'm talking about, then, no, I have no knowledge of those
24 such accounts.

25 MS. TUCCI-JARRAF: I'm just going to check to see if

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Sean O'Malley - Recross-Examination

1 there's anything further. I don't think I have anything
2 further, Mr. O'Malley. Thank you very much.

3 THE COURT: Thank you, Ms. Tucci-Jarraf.

4 Mr. Beane, anything further on recross in response to
5 the redirect?

6 **RECROSS-EXAMINATION**

7 BY MR. BEANE:

8 Q Mr. O'Malley, have you ever heard the term "straw man
9 account"?

10 A Yes.

11 Q Could you define that term for us?

12 A I believe typically that would be where somebody
13 would open an account in their name, but with the understanding
14 that the true beneficiary, ultimate beneficiary is somebody
15 else.

16 Q Thank you. Have you ever heard of the Cestui Que
17 Trust. I can spell that if you need.

18 MS. DAVIDSON: Objection, Your Honor. Relevance.

19 THE COURT: What's the relevance, Mr. Beane, to that
20 question?

21 MR. BEANE: The Cestui Que Trust?

22 THE COURT: What's the relevance of asking him about
23 that trust? I don't recall that it came up in redirect at all.

24 MR. BEANE: I was asking if he heard of the trust,
25 because it's a trust account that's supposedly held within the

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Sean O'Malley - Recross-Examination

1 Federal Reserve System.

2 THE COURT: I'll go ahead and let him ask the
3 question. I'll overrule the objection.

4 THE WITNESS: I've never heard of such account.

5 BY MR. BEANE:

6 Q The Cestui Que Trust, you've never heard of?

7 A No.

8 Q Have you ever heard of the accounts being linked to
9 the birth certificates of American citizens?

10 A I know that that folklore was in the Harvey Dent
11 videos, but that's not accurate.

12 Q That's folklore?

13 A Yeah. It's false.

14 MR. BEANE: Thank you very much.

15 THE COURT: Thank you.

16 Mr. O'Malley, you may be excused.

17 THE WITNESS: Thank you.

18 THE COURT: Government may call its next witness.

19 MS. SVOLTO: The government Calls Dwayne Griffith.

20

21

22

23

24

25

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 WHEREUPON,

2 **DWAYNE GRIFFITH,**

3 was called as a witness and, after having been first duly
4 sworn, testified as follows:

5 **DIRECT EXAMINATION**

6 THE COURTROOM DEPUTY: Have a seat. If you can scoot
7 up close. Please state and spell your name for the record.

8 THE WITNESS: I'm sorry?

9 THE COURTROOM DEPUTY: State and spell your name for
10 the record.

11 THE WITNESS: Dwayne Griffith. D-w-a-y-n-e,
12 G-r-i-f-f-i-t-h.

13 THE COURTROOM DEPUTY: Thank you, sir.

14 BY MS. SVOLTO:

15 Q Good morning, Mr. Griffith. Could you give us some
16 background information about yourself. Where do you work?

17 A Ted Russell Ford.

18 Q And where is Ted Russell Ford located?

19 A Here in Knoxville.

20 Q And what do you do there?

21 A I'm the general sales manager.

22 Q And what sort of job duties do you have as the
23 general sales manager?

24 A Overseeing the day-to-day activity as far as the
25 sales side.

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 Q And how long have you been doing that?

2 A A year and a half.

3 Q And have you been in sales long?

4 A 26 years.

5 Q And were you working at Ted Russell Ford in July of
6 2017?

7 A Yes.

8 Q And were you working as the general sales manager
9 then as well?

10 A Yes.

11 Q Are you familiar with a Randall Beane?

12 A Yes.

13 Q And could you describe how you became familiar with
14 him?

15 A He purchased a truck at that time.

16 Q And when was that?

17 A In July.

18 Q Of 2017?

19 A Yes.

20 Q And can you describe that purchase?

21 A He purchased a 2017 or a new Super Duty King Ranch
22 pickup.

23 Q And what color was that?

24 A It's called ruby red. It's kind of a cranberry
25 color.

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 Q Do you know what day that was?

2 A I don't recall the actual day.

3 Q All right. And do you recall the -- how much the
4 truck was?

5 A It was over 80,000.

6 Q All right. I'd like to show just the witness and the
7 defendants the Government's collective Exhibit 133. And then
8 that's 133A. We're going to flip through these real quick.
9 I'm going to ask you if you recognize what these documents are.

10 A Okay.

11 Q Do you recognize this document?

12 A Yes. This is our buyer's order.

13 Q You can just tell me if you recognize it first.

14 Thanks.

15 All right. 133B, please.

16 And you recognize this document?

17 A Yes.

18 Q C?

19 A Yes.

20 Q Keep going.

21 And D?

22 A Yes.

23 Q E?

24 A Yes.

25 Q F?

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 A Yes.

2 Q G?

3 A Yes.

4 Q H?

5 A Yes.

6 Q I?

7 A Yes.

8 Q K?

9 A Yes.

10 Q L -- I'm sorry, did I say 133J, please? You've
11 reviewed that.

12 All right. And then K and L also?

13 A Yes. I --

14 Q Then I'm going to go -- M?

15 A Yes.

16 Q And then N?

17 A Yes.

18 Q O?

19 A Yes.

20 Q And P?

21 A Yes.

22 Q And I'd like to also show the witness Exhibit 134.

23 A Yes.

24 Q All right. And are you aware of the recording
25 practices at Ted Russell, a custodian of records at Ted

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 Russell?

2 A Am I aware of them?

3 Q Yeah. Of the practices of custodian of records at
4 Ted Russell Ford?

5 A Yes.

6 Q Are you familiar with the business recordkeeping
7 practices there?

8 A Yes.

9 Q And so are these records records that are kept in the
10 ordinary course of business at Ted Russell?

11 A Yes.

12 Q And were they kept at or near the time of the events
13 as they occur?

14 A Yes.

15 Q Kept by someone with knowledge of the events?

16 A Yes.

17 MS. SVOLTO: I'd like to move to admit Government's
18 collective Exhibit 133A through P and Exhibit 134.

19 THE COURT: So admitted.

20 (Government's Exhibits 133A through P and 134 admitted
21 into evidence.)

22 BY MS. SVOLTO:

23 Q All right. I'd like to turn your attention to
24 Government Exhibit 133A.

25 If you could, expand the buyer name and address.

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 All right. So, first, what is this document?

2 A This was our buyer's order.

3 Q A buyer's order. And what is a buyer's order?

4 A It tells us and the customer what they are purchasing
5 and where the vehicle is to be titled, whose name it's going
6 in.

7 Q Are those prepared on the date the sale is made?

8 A Yes.

9 Q And so it signifies the date on those sales, on the
10 buyer's order?

11 A Yes.

12 Q And what's the date on here?

13 A July 6th.

14 Q And so is that the date that the sale went through?

15 A Yes.

16 Q Okay. And the buyer name and address is the buyer of
17 the vehicle?

18 A Yes.

19 Q And so the buyer's name there is what?

20 A Randall K. Beane.

21 Q And it shows the address and e-mail address.

22 Correct?

23 A It does.

24 Q And a phone number?

25 A Yes.

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 Q And is this information provided to Ted Russell Ford
2 by the purchaser?

3 A Yes.

4 Q And who is it provided to? Is it provided to a
5 salesperson?

6 A To a salesperson.

7 Q Okay. And if you could expand out, zoom out again,
8 please.

9 And so on the buyer's order, does it outline all the
10 terms of the agreement?

11 A Yes.

12 Q All right. Could you expand the right column.

13 And so what are the terms of this agreement?

14 A Mr. Beane was purchasing the vehicle for \$80,510.86.
15 Do you want -- are you wanting me to go down through this?

16 Q No. You do not have to go down through it. So what
17 was the final, at least -- can we get to the final total, is
18 that it at the bottom there?

19 Okay. So, then, does it indicate whether there are
20 any financing options on this page?

21 A No. There was no financing.

22 Q Okay. And so does that mean that the buyer purchased
23 with cash?

24 A Correct.

25 Q And so do you remember Mr. Beane when he came into

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 the dealership that day?

2 A Yes.

3 Q And was there anything unusual about the transaction
4 to you?

5 A The only thing that struck me odd that particular day
6 was the salesperson came to me and was excited. It was one of
7 her first sales, and she said that Mr. Beane had purchased the
8 vehicle for the window price or sticker price, which is
9 somewhat odd. Normally, people negotiate something there. So
10 it happens occasionally, but in today's world with the
11 Internet, we negotiate most every deal.

12 Q And so, then, Mr. Beane purchased the vehicle for
13 sticker price?

14 A Yes.

15 Q All right. And can we go to Page 2 of 133A. All
16 right. So on Page 2, if you could go to the middle of the
17 page, and all the way over to the end.

18 All right. So does it indicate the buyer's initials
19 there?

20 A Yes.

21 Q And so that's the purchaser of the vehicle. Correct?

22 A Yes.

23 Q And there it has the total amount for the balance on
24 the vehicle?

25 A Yes.

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 Q And that's the total amount paid?

2 A Yes.

3 Q Okay. All right. So can you read the balance due
4 there, please?

5 A It's hard to read on here. But I believe it's
6 \$86,153.93.

7 Q All right. And do you recall whether Mr. Beane spent
8 a long time searching for a vehicle?

9 A I don't recall that.

10 Q Okay. And so if we could look at 133B.

11 All right. And what is this exhibit?

12 A This is the title application.

13 Q And what is the purpose of the title application?

14 A So that our accounting group can go to the courthouse
15 and title it into this customer's name and address.

16 Q All right. And could we focus on the name there.
17 Okay. And does it also give an address?

18 I'm sorry. Could you state what the name is there?

19 A Randall K. Beane.

20 Q And there's an address. What is that?

21 A 300 State Street, Apartment 365.

22 Q All right. And is that in Knoxville?

23 A Knoxville, Tennessee 37902.

24 Q Okay. Is this document produced with information
25 provided by the buyer?

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 A Yes.

2 Q And so the last name you just read, that was the
3 buyer. Correct?

4 A Yes.

5 Q Is there a signature on this document as well?

6 A Yes.

7 Q Can we expand on that.

8 Does that appear to be the signature of the buyer
9 here?

10 A Yes.

11 Q Okay. And what was the date of this?

12 A July 6th, 2017.

13 Q All right. Could we go to 133C.

14 All right. What's this document?

15 A This is an odometer statement.

16 Q And are these documents that are typically provided
17 at every sale?

18 A Yes.

19 Q And with information provided to the salesperson or
20 personnel at Ted Russell Ford?

21 A I don't understand your question.

22 Q Is it -- are these documents created with information
23 provided to the salesperson by the buyer, such as --

24 A The names and addresses, yes. The odometer would be
25 the salesperson.

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 Q All right. And so this is done in every case?

2 A Yes.

3 Q All right. Can we go to 133D, please.

4 All right. And what is this document?

5 A This is a power of attorney allowing one of our
6 people from the store to do the title work without the customer
7 being present at the courthouse.

8 Q Is that pretty common to do that?

9 A Yes.

10 Q Was there anything particularly unusual about the
11 title in this case?

12 A No, not -- I don't think so. Not at this point.

13 Q Okay. And at any point during your dealings with
14 Mr. Beane, was there anything unusual?

15 A At one point, we stopped the sale, because he wanted
16 to change the way he wanted it titled.

17 Q Okay. And do you recall when that was?

18 A That was three or four days later, probably, two to
19 three days later. He said that his attorney would get in touch
20 with us in order to give us the way it needed to be titled.

21 Q And so if -- did he describe how it needed to be
22 titled?

23 A Not at that point.

24 Q Okay. Did he at a later point describe how it needed
25 to be titled?

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 A He did not, no.

2 Q Okay. So --

3 A He did say that it was going to be in a trust. He
4 did not tell me any more than that. I was to talk to -- with
5 his attorney for the rest.

6 Q And did you talk to an attorney about that?

7 A Yes.

8 Q Who was that?

9 A Someone named Heather Tucci.

10 Q And what did that -- so you had a discussion with
11 Heather Tucci?

12 A A phone --

13 Q Phone call?

14 A -- conversation.

15 Q What was the phone call regarding?

16 A That they were going to change from doing a -- paying
17 with check to paying with a wire transfer of the money, and
18 that Mr. Beane was going to change the way -- or they were
19 going to change the way that they titled the vehicle.

20 Q Okay. So, initially, how was Mr. Beane planning on
21 paying for the vehicle?

22 A He wrote a check.

23 Q And could we go to Government's Exhibit 134, please.

24 Do you recognize this document?

25 A Yes.

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 Q And what is it, please?

2 A It is the check that he wrote that day.

3 Q All right. And is it made out to Ted Russell?

4 A It is.

5 Q And could we focus on the name and address line there
6 on the top left-hand corner?

7 A Randall Keith Beane, 300 State Street, Apartment 365,
8 Knoxville, Tennessee 37902.

9 Q All right. And so it was for the -- and then the --
10 the bank that this check is drawn from, can we focus on that
11 and highlight that, please. And what bank is that?

12 A USAA Federal Savings Bank.

13 Q All right. And so when Mr. Beane gave Ted Russell --
14 or Ted Russell Ford this check, what happened after that?

15 A He, of course, did the paperwork that we've seen, and
16 then our finance manager would call the lender or the bank and
17 verify funds, which we did do.

18 Q Okay. Was that all done on what date?

19 A That would have been done the same day.

20 Q Okay.

21 A July 6th.

22 Q And so after the finance manager called, you said he
23 called and verified funds?

24 A Yes.

25 Q Who does he call to do that?

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 A He would call USAA.

2 Q Okay. And is the check then immediately deposited?

3 A No. We put it into a deposit with our accounting
4 group and they'll drop it off at a certain point.

5 Q So did Ted Russell ever cash this check?

6 A No, we did not.

7 Q Okay. So what happened?

8 A A day or two, I don't recall, I'm a little foggy on
9 that, but Mr. Beane came in and asked for an MSO. And I
10 explained to him that we don't give out MSOs.

11 Q Could you tell us what an MSO is?

12 A It's a manufacturer's statement of origin.

13 Q And so what does that mean?

14 A When a vehicle is built at the factory, it does not
15 have a title. It has an MSO. The reason being is they do --
16 the factory has no idea where that vehicle will be titled. So
17 when they send Ted Russell a vehicle, I may sell the vehicle in
18 Virginia or North Carolina, Tennessee, so it comes with an MSO,
19 and that is changed into a title once --

20 Q So do -- I'm sorry.

21 A -- once it's sold to that customer at that address.

22 Q So do individuals usually request an MSO when they
23 purchase a vehicle?

24 A No. I felt that was a little odd, just because I've
25 done this about 26 years, in management about 24, and I've

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 never had a customer ask me for an MSO.

2 Q And so once he asked you for an MSO, what happened?

3 A I explained to him that we don't do anything with an
4 MSO until we actually have the funding and the deal is finished
5 with funds in the house, and he seemed to accept that.

6 Came back the next day and asked about the MSO again,
7 and, again, we had the same similar conversation. And then,
8 again, time frame, I'm not really a hundred percent, but at one
9 point, he came back and said that his attorney had advised him
10 to cancel that check so that they could in turn wire the money
11 and change the title work.

12 Q And so did you do that?

13 A I held onto the check and all the paperwork, and he
14 had given me a time frame on that following Monday to contact
15 his attorney.

16 Q Okay. So after the discussion about the MSO, did --
17 if -- did you discuss with if there -- if you had turned over
18 the MSO to the individual, would there be any resource for Ted
19 Russell if they had the MSO and the vehicle?

20 A No. Once a MSO is given out, they could -- they
21 could title it anywhere they wanted to.

22 Q And is that why -- why you don't typically give out
23 MSOs?

24 A MSOs do not leave without funding. I've never known
25 us to give an MSO to a customer at all.

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 Q Thank you. So after that, was there any other
2 interaction with Mr. Beane?

3 A He tried to leave the truck that day.

4 Q To leave -- I'm sorry, to leave the truck with Ted
5 Russell?

6 A To leave the truck there. He did. And because I had
7 had someone tell me the funds were good, for customer service
8 reasons, I told him to go ahead and hold onto the truck, and we
9 would get with his attorney Monday and finish out how we needed
10 to do it.

11 Q Is that something that Ted Russell would typically
12 do?

13 A We do that quite often.

14 Q All right. So did anything happen after that?

15 A He did bring the vehicle back. I believe it was on
16 Monday and left the keys, and said that when I got time to talk
17 with her, his attorney, that she would give me all the
18 information that I needed and he would be back. He had to
19 leave town, and he would be back later on to pick up the
20 vehicle and finish it up.

21 Q Okay. And before returning the vehicle, did you
22 become aware of any issues with the check or any issues with
23 the transaction?

24 A No. It was -- it was more after that, I think, when
25 I was talking with the attorney.

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 Q Okay. And do you recall when that was?

2 A That would have been -- if I remember right, he gave
3 me the block of time between 10 and 11 that Monday to call.

4 Q And so who -- who gave you that block of time to
5 call?

6 A Can I back up just a second? He did return the truck
7 after I had spoke to the attorney. I apologize. Thinking
8 back, he did return it after that.

9 Q Okay. So before the truck was returned to Ted
10 Russell, you had a conversation with an attorney?

11 A Yes.

12 Q And, again, who was that?

13 A Heather Tucci.

14 Q And do you recall maybe what date that was?

15 A That would have been Monday.

16 Q Okay. So Monday after the 6th?

17 A Yes.

18 Q Okay. And so were there any steps you took
19 particularly after that phone call?

20 A During the phone call, the one thing that stood out
21 with Ms. Tucci was, there was a comment made -- exactly word
22 for word, I don't recall how it -- but the comment was made
23 that Mr. Beane would be back in touch. He was good for the
24 money. And there was a -- there was a dollar figure that she
25 gave. He has, and I'm going to use the word 6 million --

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 \$6 million -- oh, wait, just a minute, no, he just purchased a
2 motor home that was 600,000. Again, the number may be off a
3 little bit. So he's down a little bit from the 6 million or
4 whatever.

5 And my thought there was, I just can't imagine an
6 attorney volunteering that information when it really didn't
7 have anything to do with me. The 86,000 was all I was worried
8 about.

9 And so after that, I got off the -- at one point, he
10 had -- Mr. Beane had come in and said he had bought that motor
11 home, and it was during one of those times where he was asking
12 about an MSO, that he had a folder in his hand, and showed me
13 that Buddy Gregg had given him an MSO to the RV or motor home.

14 And so when I got done with the call from the
15 attorney, being after those comments that were made, I called
16 Buddy Gregg and just said, "Hey, is this -- is this gentleman
17 real?" You know, there was some issue there.

18 I had also, and I don't recall if it was before I
19 called Buddy or not, but I did call USAA, because I got to
20 looking at the check, and the address -- I did finance for
21 several years, so I did a lot with USAA. The address looked
22 correct, but the phone number did not. So I decided to call
23 the phone number and reverify funds.

24 And when I called, whoever I spoke with really didn't
25 give good answers, and it was like they were fumbling around.

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 So I looked up -- Googled the number that I was more familiar
2 with in doing finance before.

3 I called that number, and that person told me that
4 the funds were not there, they were no longer there or it
5 wasn't good. So that's when I called Buddy Gregg to see if --
6 and they said that everything was fine there.

7 So getting off the phone, I really didn't know what
8 to think at that point.

9 Q So at this point, did Ted Russell Ford have the
10 truck?

11 A Yes. We got the truck that day.

12 Q That day, but at the time that you were -- you called
13 USAA --

14 A No, I had to -- I got off the phone and was a little
15 worried, because I had given the truck back out after he had
16 told me he canceled the check. So I drove to where he was
17 supposed to reside, and the truck was there. It was fine.

18 So I went back to the store, that was probably
19 midday, and tried to reach him by phone and was not able to do
20 that. So after three or four hours, I again drove by the
21 residence one more time, and the truck was there. It was fine.
22 And then not long after that, I got the truck back.

23 Q And so -- and that was the day he came back and
24 said -- and did he -- did he tell you why he was returning the
25 truck exactly?

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 A Just said that once we got all the things worked out
2 with Ms. Tucci and the titling and the wire, that he would be
3 back to get the vehicle. He had some business out of town.

4 Q Okay. Thank you. Did he discuss purchasing anything
5 else at Ted Russell Ford?

6 A Yes. At one point -- well, the first day he was
7 there, at some point said that he wanted a blue truck just
8 exactly the same way, the same options on the truck for his
9 brother. He was going to purchase one for his brother, which
10 was -- again, we don't see that very often. It's a little odd.

11 Q Okay. So after the truck is returned to Ted Russell,
12 what happens next?

13 A We wait for a few -- for a day or two, still wasn't
14 able to reach him. So with knowing that the funds were no
15 longer available on the check, we just put the vehicle back out
16 for sale.

17 Q Okay. And I'd like to show for the witness and
18 defense only previously marked Exhibit 135.

19 Do you recognize this document?

20 A Yes.

21 Q And that's 135-1. And could we show the witness and
22 defense Government's Exhibit 135-2.

23 And do you recognize that?

24 A Yes.

25 Q And are these -- is -- excuse me. Is 135-1 and 135-2

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Dwayne Griffith - Direct Examination

1 records that are commonly kept by Ted Russell?

2 A This was the deal folder that all the other paperwork
3 would be in and filed away.

4 Q Okay. And --

5 A This is the front of that folder.

6 Q Are those folders part of the documents that are kept
7 in the regular course of business?

8 A Yes.

9 Q And would it have been kept at or near the time the
10 events occurred?

11 A Yes.

12 Q And kept by someone in the business of -- excuse me,
13 someone with knowledge of the records?

14 A Yes.

15 Q And is this actually a -- is this the actual document
16 or a photograph of the document?

17 A Well, it's the actual document.

18 MS. SVOLTO: Okay. So at this time, we'd like to
19 move to admit Government's collective Exhibit 135, 135-1, and
20 135-2.

21 THE COURT: So admitted.

22 (Government's Exhibits 135, 135-1, 135-2 admitted into
23 evidence.)

24 BY MS. SVOLTO:

25 Q Could we go to 35-1, please. If we could zoom in to

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Dwayne Griffith - Direct Examination

1 this area circled there. So this folder is -- was for which
2 transaction here?

3 A The one we've been talking about.

4 Q Okay. And so -- so that's the buyer's name there?

5 A Yes.

6 Q And what's the name?

7 A Randy Beane.

8 Q And gives an address as well?

9 A 300 State Street.

10 Q And is that the same address you went to looking for
11 the truck?

12 A Yes.

13 Q Okay. All right. Could you zoom back out, please?

14 All right. There's clearly some notes on there.

15 Could you describe what those notes mean and who -- who made
16 them?

17 A The ones to the left there are the way his attorney
18 wanted -- was telling me that it was going to be titled,
19 Randall Keith Beane Duly Factualized.

20 Q Is that on the left side there?

21 A That's on the left side there.

22 Q Okay.

23 A And then the -- in the center there, it says "changed
24 to trust," and Heather Jarraf, and then her phone number is
25 there.

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 Q Okay. And what's the phone number there?

2 A (253) 241-2008.

3 Q Okay. Thank you. And so the writing in the middle
4 in purple, what's that say?

5 A "Dead Deal."

6 Q What does that indicate to you?

7 A When we unwind it due to nonpayment or any other
8 reason, we will label it a dead deal and file it away.

9 Q Okay. And could we go to 135-2, please, just for a
10 second. Is this the same document that we were just looking
11 at?

12 A Yes.

13 Q So it's -- it's just a different part of 35-1?

14 A Yes.

15 Q And so could we, yeah, highlight that or zoom in a
16 little bit.

17 So that's what you were describing earlier. Is that
18 correct?

19 A Yes.

20 Q And so, again, this was -- notation was based on
21 what?

22 A My conversation with the attorney.

23 Q Okay. So did you write that note?

24 A Yes. That's my handwriting.

25 Q Okay. Thanks. If we could now go to -- so -- go

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Dwayne Griffith - Direct Examination

1 back to 133A, please.

2 And so the -- when the deal was unwound, when exactly
3 was that roughly?

4 A In my opinion, it was really the day that he brought
5 the truck back.

6 Q Okay. So after -- that was after the phone call --

7 A Uh-huh.

8 Q -- with the attorney?

9 A Right.

10 Q Okay. And so did you ever prepare any documents in a
11 trust?

12 A We did not.

13 Q Did you give -- ever get any trust documents?

14 A We did not.

15 Q Just a second, please. I'd like to show for the
16 witness and defense only Government's Exhibit 132. The
17 Government's collective Exhibit 132-1 and dash 2. Do you
18 recognize this?

19 A Yes. It's one of our trucks.

20 Q Okay. And could you show it to -- 132-2.

21 Is that the same?

22 A Yes. It's the same truck, very similar to the one he
23 was purchasing.

24 Q Okay. And is this a photograph?

25 A Yes.

UNITED STATES DISTRICT COURT

Dwayne Griffith - Direct Examination

1 Q And is it an accurate reflection of -- of that truck?

2 A Yes.

3 MS. SVOLTO: I'd like to ask that Government's
4 collective Exhibit 132-1, dash 2 be admitted.

5 THE COURT: So admitted.

6 (Government's Exhibits 132-1 and 132-2 admitted into
7 evidence.)

8 BY MS. SVOLTO:

9 Q If we could go to 132-1. So is this -- this is one
10 of the trucks?

11 A Yeah.

12 Q At your -- and is it the same kind of truck that
13 Mr. Beane purchased?

14 A It's very similar, yes.

15 Q And is that ruby red color --

16 A Yes.

17 Q -- that you're describing? And if we could show
18 132-2. Okay. Thank you.

19 If I could have just one second, please, Your Honor.

20 THE COURT: Yes.

21 MS. SVOLTO: I have no other questions.

22 THE COURT: Thank you.

23 Cross-examination, Mr. Beane?

24 MR. BEANE: Yes.

25

UNITED STATES DISTRICT COURT

Dwayne Griffith - Cross-Examination

1 **CROSS-EXAMINATION**

2 BY MR. BEANE:

3 Q Hello, Mr. Griffith.

4 A Hello.

5 Q Were you aware that I sold Ford vehicles for several
6 years?

7 A I don't recall that, no.

8 Q And you testified that Taylor was a new salesman?

9 A Yes.

10 Q Is it possible that because I'd been in the sales
11 business for that many years, that I knew how it would feel to
12 purchase a vehicle at full sticker price to boost the morale of
13 a new salesman, especially as -- one as eager to help someone
14 as Taylor was?

15 A I didn't catch the question of that.

16 Q Because I'd been in the sales business --

17 A Right.

18 Q -- would it be possible that because I understood
19 what it felt like to -- for a customer to come in and purchase
20 a vehicle at sales price, which had happened to me before, how
21 it would boost a new salesman's morale?

22 A Yes.

23 Q Is it possible? Have you ever had someone buy a
24 vehicle at sticker price when you were new in sales?

25 A I'm sure that I did. It's been many years ago.

UNITED STATES DISTRICT COURT

Dwayne Griffith - Cross-Examination

1 Q Yeah. So it's not that uncommon?

2 A It is uncommon, but it does happen.

3 Q Right. Are you aware that there's a gentleman in
4 this room that I was introduced to that was considered to be a
5 manager at Ted Russell Ford?

6 A In here?

7 Q Yes, sir. This gentleman right back here with the
8 orange and blue tie on?

9 MR. PACK: Pink today.

10 BY MR. BEANE:

11 Q Pink.

12 A I was not aware of that.

13 Q You're not aware of that. He was sitting in the
14 manager's booth and introduced to me as a sales -- as a sales
15 manager, when he's actually an FBI agent?

16 A I -- I was not aware of that at all.

17 Q Okay. And you alluded to the discussion that you and
18 I had the day I dropped the truck off, as I was walking out the
19 door, I talked to you about where I was heading out of town to
20 take care of business. Do you remember where I was telling you
21 I was going?

22 A If I remember right, it was Texas, I believe.

23 Q Yes, sir. To the USAA Bank. Correct? To take
24 care --

25 A That is correct.

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Dwayne Griffith - Cross-Examination

1 Q Oh, and on the -- on the check that was written, too,
2 you said there was a number that was fake. What number was
3 that?

4 A I didn't say fake. It's one I didn't recognize.

5 Q A number you didn't recognize?

6 A Didn't recognize.

7 Q What number are you referring to?

8 A It's not here in front of me.

9 Q Can we have the exhibit for the check.

10 What number is it that you do not recognize. Could
11 you point that out, please?

12 A The (210) 456-8000.

13 Q Where is that at?

14 A It's there with USAA, right underneath San Antonio.

15 Q We have a USAA employee in here, I don't know if --
16 can we --

17 THE COURT: Ask questions of this witness.

18 BY MR. BEANE:

19 Q These checks were sent to me by USAA. I don't know
20 if the check could have been --

21 A I don't know either. It's just one I didn't
22 recognize.

23 Q Okay. So it's just -- it's not that it's fake. It's
24 just that you didn't recognize the number?

25 A Correct. I didn't recognize the number.

UNITED STATES DISTRICT COURT

Dwayne Griffith - Cross-Examination

1 Q Okay. All right. I just wanted to clarify that.

2 And as far as you were concerned, was the truck
3 brought back in good repair and clear?

4 A Yes. It was fine.

5 MR. BEANE: All right. Thank you very much.

6 THE COURT: Thank you.

7 Ms. Tucci-Jarraf, any cross-examination?

8 MS. TUCCI-JARRAF: Yes.

9 **CROSS-EXAMINATION**

10 BY MS. TUCCI-JARRAF:

11 Q Without prejudice, I have a few questions for you.

12 A Okay.

13 Q Mr. Griffith, I just wanted to really kind of go over
14 dates of when something happened. That wasn't very clear going
15 through. I'm going to show us a calendar here.

16 A Okay.

17 Q Should be on your screen, just so that we -- I can
18 figure out which dates you were talking about that certain
19 events happened on, and that's -- that's the primary part of my
20 cross here.

21 So you had stated that on January 6th, Mr. Beane had
22 come in to purchase a red truck?

23 A Yes.

24 Q Okay. So it was January 6th?

25 MS. DAVIDSON: July.

UNITED STATES DISTRICT COURT

Dwayne Griffith - Cross-Examination

1 BY MS. TUCCI-JARRAF:

2 Q I mean, excuse me, July 6th.

3 A July 6th, yes.

4 Q 2017.

5 A I'm sorry, yes, July 6th.

6 Q I think I initiated the error there.

7 Okay. And then you stated that -- you stated that
8 Randall Beane had tried to leave the truck with you after
9 the -- all the paperwork was done?

10 A Yes.

11 Q And that was still on July 6th?

12 A No. I -- I think that -- and I'm a little foggy on
13 it. But I think it was on Saturday that he did that, which
14 would have been the 8th.

15 Q July 8th?

16 A Uh-huh.

17 Q July 8th is the day he tried to leave the truck with
18 you?

19 A Yes.

20 Q And you told him he could take it?

21 A Yes.

22 Q Okay. And you said that he returned the vehicle to
23 the dealership and that was after we had had a conversation.
24 What date do you remember him returning the vehicle?

25 A I want to say it was Monday, because that was the day

UNITED STATES DISTRICT COURT

Dwayne Griffith - Cross-Examination

1 that you and I --

2 Q Talked?

3 A -- had spoke.

4 Q Okay. So July 10th?

5 A Uh-huh.

6 Q And that was the date I remember that you and I had
7 spoke, too, was July 10th.

8 A Okay.

9 Q I think it was mid-morning or something like that.

10 A The block of time he told me to call was between 10
11 and 11.

12 Q 10 and 11?

13 A Yes.

14 Q Thank you.

15 A So it had to be between that time.

16 Q And that was Eastern Standard Time. Correct?

17 A Yes.

18 Q Yeah. Okay. So on July 10th between 10 and 11, you
19 and I did speak --

20 A Yes.

21 Q -- on the phone. I don't remember who initiated the
22 call. Actually, I think you called me.

23 A I called you.

24 Q You called me.

25 And at that time, you indicated to me Randall had the

UNITED STATES DISTRICT COURT

Dwayne Griffith - Cross-Examination

1 truck?

2 A Yes.

3 Q In his possession?

4 A Yes.

5 Q And I asked you to clarify, because he was at the
6 dealership with you when we were speaking. Is that correct?

7 Or was he off --

8 A No. He was not there when you and I were speaking.

9 Q Okay.

10 A I don't recall him being there. I don't think he
11 was, no.

12 Q Okay. I do recall that you had said that he had it
13 in his possession?

14 A Yes. Yes.

15 Q Okay. So that's correct.

16 Okay. And then I had asked if he had already paid
17 for the truck, and you said he had a check there. Correct?

18 A He had written a check, but he had canceled it before
19 I called you, is what he had told me.

20 Q Right. That he had canceled the check?

21 A Uh-huh.

22 Q And I had asked you to tell me who was the listed
23 purchaser, what was the name of the listed purchaser on there?

24 A You may have. I don't recall that.

25 Q Okay. And that I had told you that the listed

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Dwayne Griffith - Cross-Examination

1 purchaser should not be Randall Keith Beane, but Randall Keith
2 Beane Factualized Trust?

3 A Duly Factualized Trust.

4 Q It was Randall Keith Beane Duly Factualized Trust?

5 A Yes.

6 Q And that was on the 10th as well during our
7 conversation?

8 A Yes.

9 Q And during our conversation, I told you that I had --
10 was the lawyer for the factualized trust and its trustee, who
11 was Randall Keith Beane?

12 A I think you said you were his attorney. I don't know
13 that you went into depth.

14 Q Your recall is I actually used the word "attorney"?

15 A Yes.

16 Q And your claim is that I divulged private information
17 about Mr. Beane's financial information to you --

18 A Yes.

19 Q -- on that call?

20 A Yes.

21 Q And what was it again that I divulged?

22 A The numbers may be off a little bit, but there was a
23 comment of somewhere, Mr. Beane had \$6 million, oh, wait, just
24 a moment, he bought a motor home for 600,000, so he's less
25 that, so something to that effect.

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Dwayne Griffith - Cross-Examination

1 Q And, in fact, on that call that we were on, it was a
2 conference call with Mr. Beane. Isn't that correct? Mr. Beane
3 was on the phone with you and I at the same time?

4 A I don't recall that.

5 Q And on that phone call, I confirmed with Randy that
6 he had the truck, and I asked him where he had it while we were
7 on that phone call?

8 A I really don't recall that.

9 Q And he actually stated to us on the phone call that
10 it was at his apartment complex?

11 A I don't recall him being on the conversation at all.

12 Q You said you had drove by, which would have been on
13 July 10th, drove by his apartment complex and did in fact see
14 that it was at his apartment complex?

15 A It was. It was there.

16 Q And that I did say that since there was a canceled
17 check and he had the property, that he needed to return the
18 property to you to protect your interest as well as his
19 interest?

20 A That's what he told me that you had --

21 Q I actually stated to you on the phone call and
22 confirmed with him --

23 A Again --

24 Q -- that he needed to return the property, and you
25 said that's fine, and that there would be extra paperwork?

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Dwayne Griffith - Cross-Examination

1 A I don't recall him being on the phone.

2 Q Okay. And that on that particular call, you had
3 asked me if he was going to reissue a check.

4 I said, "I don't know. That's up to Mr. Beane,"
5 Mr. Beane's decision of whether he would write a check or
6 whether he would do a wire. That's not my call to make.

7 A Okay. Again, I don't recall him being on the line at
8 all.

9 Q I'm asking you if you recall me saying I wasn't sure
10 how he was going to pay, that was his decision, whether it
11 would be a new check or whether it would be a Fedwire?

12 A My thought process has always been you were telling
13 me a wire. I don't recall you saying those other things.

14 Q Just clarifying what you recall.

15 A Okay.

16 Q And that on that call, I said that no transaction
17 should occur unless there's correct paperwork as well as
18 funding?

19 A You did say that you wanted the paperwork corrected,
20 yes, in order for it to --

21 Q Correct. And that he should not have the vehicle
22 until everything was step by step and done and legit. Correct?

23 A I think that's -- yeah, I believe you said that, yes.

24 Q Okay. And, in fact, you did get the truck back that
25 day?

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Dwayne Griffith - Cross-Examination

1 A I did.

2 Q Immediately, and there was no further follow-up with
3 any paperwork or Mr. Beane coming in to do a transaction after
4 July 10th. Correct?

5 A Not to my knowledge.

6 Q Okay. And you and I never had any contact after
7 that?

8 A Not to my knowledge.

9 Q Okay. I'm just going to check here to make sure I
10 have no further questions. Oh, I did have one other question.

11 A Okay.

12 Q For clarification regarding a date, you had stated
13 that you had -- after our conversation that we had had when you
14 had received the truck back, you had stated that you called
15 Buddy Gregg and USAA.

16 Do you remember what date that was that you made
17 those calls?

18 A I would -- I would think that it was on that -- on
19 the 10th. I don't really recall, but some of the red flags
20 that I felt were coming up was the reason for my call.

21 Q Oh, of course. I was just asking on which date you
22 would have called them, was it on the 10th? I think it was on
23 the 10th, because by that time on the 10th --

24 A I'm fairly certain it was the 10th.

25 Q Okay. But after you and I had spoke?

UNITED STATES DISTRICT COURT

Dwayne Griffith - Redirect Examination

1 A Yes.

2 MS. TUCCI-JARRAF: Okay. Mr. Griffith, thank you
3 very much.

4 THE COURT: Thank you.

5 Any redirect?

6 MS. SVOLTO: Just briefly, Your Honor.

7 **REDIRECT EXAMINATION**

8 BY MS. SVOLTO:

9 Q Mr. Griffith, would you know whether an FBI agent was
10 sitting in your office posing as one of your -- one of the
11 employees there?

12 A Yes.

13 MS. SVOLTO: Thank you.

14 THE COURT: Any recross on that limited redirect?

15 Mr. Beane, any further questions?

16 MR. BEANE: No.

17 THE COURT: Ms. Tucci-Jarraf?

18 MS. TUCCI-JARRAF: No.

19 THE COURT: All right. Is that it? Okay. Thank
20 you.

21 MS. SVOLTO: Yeah. Sorry.

22 THE COURT: This witness may be excused. We'll go
23 ahead and break until 1:30. Let the jury go first, and then
24 after that, Mr. Griffith, you can be excused.

25 (Jury out at 12:19 p.m.)

UNITED STATES DISTRICT COURT

Terry Wilshire - Direct Examination

1 THE COURTROOM DEPUTY: This honorable court shall
2 stand in recess until 1:30.

3 (Recess from 12:20 p.m. to 1:35 p.m.)

4 THE COURTROOM DEPUTY: All rise.

5 THE COURT: Got the next witness. We'll bring the
6 jury in.

7 (Jury in at 1:36 p.m.)

8 THE COURT: Thank you. Everyone may be seated. Ask
9 the courtroom deputy to swear in the next witness.
10 WHEREUPON,

11 **TERRY WILSHIRE,**
12 was called as a witness and, after having been first duly
13 sworn, testified as follows:

14 **DIRECT EXAMINATION**

15 THE COURTROOM DEPUTY: Have a seat, please. Scoot as
16 close as you can. State and spell your name for the record.

17 THE WITNESS: Terry Wilshire. T-e-r-r-y,
18 W-i-l-s-h-i-r-e.

19 BY MS. SVOLTO:

20 Q Captain Wilshire, where do you work?

21 A Knox County Sheriff's Office.

22 Q What do you do there?

23 A I'm a assistant facility commander on the captain
24 level. I'm over the intake center where they book everyone. I
25 also do special projects. I'm over all the communications that

UNITED STATES DISTRICT COURT

Terry Wilshire - Direct Examination

1 have to do with inmate communications going in and out of the
2 facilities.

3 Q Does that include jail calls?

4 A Yes.

5 Q All right. And how long have you been doing that?

6 A I've been with the sheriff's department 27 and a half
7 years. I've been over the jail stuff, communications about the
8 last ten.

9 Q All right. And so what are some of your primary job
10 responsibilities?

11 A First of all, I have a facility there that has 1,034
12 inmates that I'm responsible for daily activities with. Along
13 with that, I'm also liaison with the court system, local and
14 federal. I work with all the federal agencies. I help and
15 assist with any evidence they may need as far as jail phone
16 calls, e-mails, or anything they may need as far as they may
17 need for evidentiary value.

18 Q What facility is that?

19 A Roger D. Wilson Detention Facility.

20 Q Okay. And specifically regarding jail calls, are
21 jail calls recorded?

22 A Yes, they are.

23 Q And how is that done?

24 A They're done through our contracted agency, Securus
25 Technologies who we have our contract with. They provide the

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Terry Wilshire - Direct Examination

1 services for us. As inmates make phone calls, they're required
2 to use identifiers, such as PINs we issue when they come in.

3 We also have voice recognition systems. When they're
4 first booked in, they say a phrase, a few phrases that actually
5 records their voice recognition, does a voiceprint.

6 And so upon making a phone call, they're required to
7 use the given PIN number and also required to use their voice
8 and it verifies who they are before they can make the call.

9 Q So does each inmate have a unique PIN number?

10 A Yes.

11 Q And it's only for that inmate?

12 A Yes.

13 Q And each inmate also does a voice -- they have to
14 record their voice for the system?

15 A Yes.

16 Q And what's the purpose of that?

17 A For identity of who the person is making the phone
18 call, to make sure it's no one else using the inmate's PIN or
19 anything like that fraudulent.

20 Q Does that authentication happen at the beginning of
21 the call?

22 A It happens at the very beginning of the call. It
23 asks them to say their name or sometimes it will ask them to
24 say a phrase like United States. It's also continuous
25 throughout the whole phone call. It actually monitors their

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Terry Wilshire - Direct Examination

1 voice in case an inmate was to have someone use their voice to
2 get a phone call, for say, and then another inmate was to get
3 on the call afterwards. So it would monitor if there was a
4 change in the person on there.

5 Q So what happens if the voice and the PIN number do
6 not match when an inmate makes a call?

7 A When they initially make it, it won't let them make
8 it.

9 Q Okay. Does the system store and maintain these phone
10 calls?

11 A Yes.

12 Q Is that every phone call at the facility?

13 A Unless it's a privileged phone call, like an
14 attorney/client privilege or something like that, where someone
15 identifies themselves as an attorney, then we can change it
16 where it doesn't record it.

17 Q But all other calls are --

18 A All other calls are recorded, yes, ma'am.

19 Q All right. Are those calls recorded as part of the
20 ordinary course of business?

21 A Yes.

22 Q And by someone -- I guess it's a system here with
23 knowledge of the events at the time the event occurs?

24 A Repeat the question.

25 Q Yes. I'm sorry. That was long. So -- so our --

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Terry Wilshire - Direct Examination

1 they're recorded as part of the ordinary course of business?

2 A Yes.

3 Q And it's recorded at the time the events occurred?

4 A Yes. It's a live feed, live recording as it goes.

5 Q Okay. Do you recognize this?

6 A Yes, I do.

7 Q And is that your signature on it?

8 A Can't see from there.

9 Q Thank you.

10 A Yes, ma'am, it is. That's my initials, TW.

11 Q Let the record reflect I'm showing what's been
12 previously marked as Exhibit 159. So was this prepared in the
13 same manner that you just described?

14 A The disc was prepared, yes, with the same file from
15 the system, yes.

16 Q And so in preparation of this hearing today, did you
17 pull a phone call from January 10th, 2018?

18 A I did.

19 Q And with respect to that call, did you -- was that
20 a -- did you listen to that phone call?

21 A I did.

22 Q And did you also listen to this disc?

23 A Yes.

24 Q And is this disc an excerpt of that phone call?

25 A Yes.

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Terry Wilshire - Direct Examination

1 Q Does it match precisely with the phone call that you
2 listened to from your system?

3 A The phone record matches the same file name. I did
4 another download of it myself to verify it was the same file
5 name, yes, ma'am.

6 MS. SVOLTO: Move to admit Government's Exhibit 159.

7 THE COURT: So admitted.

8 (Government's Exhibit 159 admitted into evidence.)

9 BY MS. SVOLTO:

10 Q And did you also verify who makes this call?

11 A Yes.

12 Q And who was that?

13 A Can I pull the record?

14 Q Sure.

15 A The phone call I pulled was made on Roger D. Wilson
16 Detention Facility out of Pod 1C. It was conducted -- it was
17 dialed to a phone (360) 547-9518. It was a long distance phone
18 call that started on 1/10/2018 at 16:09:45. The call concluded
19 at 1/10/2018 at 16:24:45. The duration of the call was 900
20 seconds, which is the maximum amount of call that you can make
21 per call. The account number used on it, which would have been
22 the inmates ID number was 1363357, used his PIN assigned to
23 him, 859843. The inmate's name was identified as Randall
24 Beane. It was a AdvanceConnect call, which meant that he
25 called someone who had an account with Securus Technologies

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Terry Wilshire - Direct Examination

1 that prepays calls. It was a completed call, duration ended.
2 It was done in the English language, and it was voice checked
3 for voice enrollment.

4 Q Okay. Thank you.

5 MS. SVOLTO: Ask to play Government Exhibit 159.

6 (Audio played in open court; not reported.)

7 BY MS. SVOLTO:

8 Q All right. So was the voice authentication features
9 done throughout that call?

10 A Yes, they were.

11 Q And that was the PIN number for Randall Beane?

12 A Yes.

13 MS. SVOLTO: That's it. Thank you.

14 THE COURT: Thank you.

15 Cross-examination?

16 MS. TUCCI-JARRAF: No, thank you.

17 THE COURT: No cross-examination, Ms. Tucci-Jarraf?

18 MS. TUCCI-JARRAF: I know it's surprising, no.

19 THE COURT: No cross-examination, Mr. Beane?

20 MR. BEANE: No.

21 THE COURT: All right. Thank you. You may be
22 excused.

23 THE WITNESS: Thank you.

24 MS. DAVIDSON: The government calls forensic
25 accountant, Zach Scrima.

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Zach Scrima - Direct Examination

1 WHEREUPON,

2 **ZACH SCRIMA,**

3 was called as a witness and, after having been first duly
4 sworn, testified as follows:

5 **DIRECT EXAMINATION**

6 THE COURTROOM DEPUTY: Have a seat, please. Scoot
7 in, state and spell your name for the record.

8 A My name is Zach Scrima. Z-a-c-h. Last name, Scrima,
9 S-c-r-i-m-a.

10 THE COURTROOM DEPUTY: Thank you, sir.

11 BY MS. DAVIDSON:

12 Q Mr. Scrima, what is your profession?

13 A I'm a forensic accountant.

14 Q Okay. And who is your employer?

15 A The FBI.

16 Q And how long have you been with the FBI?

17 A Approximately seven and a half years.

18 Q Okay. And what is your current position at the FBI?

19 A I'm a forensic accountant.

20 Q Okay. And what -- what does a forensic accountant
21 do?

22 A Well, in our sense, we analyze financial
23 transactions, accounting records, ultimately to be used in a
24 court of law.

25 Q Okay. And what are your official duties with the FBI

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Zach Scrima - Direct Examination

1 currently?

2 A I'm assigned at FBI headquarters in Washington, D.C.,
3 part of the forensic accountant support team. And as part of
4 that role, I'm assigned cases throughout the country to help
5 special agents with their investigations focusing on the
6 financial aspect of their investigation.

7 Q Okay. And what is your educational background?

8 A I went to the University of Illinois, and I have a
9 bachelor's of accounting from there. I also have my --
10 registered CPA in the state of Illinois and I have certified
11 fraud examiner's license.

12 Q So you said you were registered CPA. So you sat for
13 the CPA exam and passed?

14 A I did, yes.

15 Q And prior to the FBI, were you an auditor in private
16 practice?

17 A I was an internal auditor at corporations.

18 Q And what does an internal auditor do?

19 A They do a range of things. My roles pertain mostly
20 to auditing the controls, the accounting controls, financial
21 controls of the company, checking books and records, and also
22 performing internal investigations.

23 Q Okay. And how is that different than a forensic
24 accountant?

25 A Well, forensic accountant focuses -- typically will

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Zach Scrima - Direct Examination

1 search out some sort of -- I guess an auditor looks at a broad
2 scope of information to make sure that everything is okay. A
3 financial -- forensic accountant often has a pointed task. So
4 it's either to trace certain transactions that have a
5 particular interest of an investigation or a business dispute
6 or a valuation of insurance losses. So it's a little bit more
7 of a pointed analysis, I guess would be the best way to explain
8 it.

9 Q Okay. And what are your -- what types of cases do
10 you currently work on at the FBI?

11 A For the most part, I've been working white collar
12 fraud and bank fraud type cases over the last five years. But
13 in my role as the FBI investigates, you know, a plethora of
14 types of violations, we can be assigned to almost anything.
15 I've -- I've contributed towards a variety of cases, but for
16 the most part, I work in the white collar or financial
17 institution fraud.

18 Q Okay. And are you familiar with the banking system
19 in the United States?

20 A Yes, I am.

21 Q Okay. And did you conduct a financial record
22 analysis on -- in this case?

23 A Yes, I did.

24 Q Okay. And did you prepare several demonstrative
25 exhibits to explain the banking transactions in this case?

UNITED STATES DISTRICT COURT

Zach Scrima - Direct Examination

1 A Yes, I did.

2 Q And would they aid you with your testimony here
3 today?

4 A They would, yes.

5 MS. DAVIDSON: Your Honor, at this time, I would like
6 to admit Government's Exhibit 160. And they're demonstrative
7 exhibits and they've been provided to both of the defendants.

8 THE COURT: Any objections?

9 MS. TUCCI-JARRAF: That's fine.

10 THE COURT: All right. Seeing no objections, we'll
11 admit Government's 160.

12 (Government's Exhibit 160 admitted into evidence.)

13 BY MS. DAVIDSON:

14 Q Okay. Before we start talking about 160, what is a
15 CD?

16 A A certificate of deposit. It's short for certificate
17 of deposit. And, essentially, it's a bank -- it's a savings
18 product that a bank offers in that it's different than a
19 savings account that you can deposit money in, withdraw money
20 as you please, it's more of a fixed product in theory. Sort of
21 like a U.S. savings bond might be.

22 And, essentially, the way it works is, you pay the
23 amount of money that the CD is valued at to the bank, and the
24 bank gives you that CD, which then earns a certain percentage
25 of interest over the time period that the CD is termed for. So

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Zach Scrima - Direct Examination

1 it might be a six-month CD, a three-month CD. It could be
2 multiple years. But whatever the parameters of that CD, the
3 bank would then pay interest accordingly.

4 Q Okay. So why do people refer to it as purchasing a
5 CD?

6 A Well, because you're essentially purchasing a product
7 from the bank versus putting your money into an account in the
8 bank. It operates a little differently.

9 Q Okay. And so like you said, it is for a certain time
10 period. After the 30 days, if you buy a 30-day CD, is -- is it
11 automatically liquidated and you have to buy another one or --

12 A I think it depends on the terms of the CD.
13 Oftentimes you have maybe, let's say, a week after it expires
14 to decide if you want to liquidate the funds or cash out or if
15 you -- and oftentimes if you don't do that, the CD will just
16 roll over into another 30-month CD.

17 That's my understanding of typical arrangements, but
18 sometimes I'm sure there are CDs that would just end and then
19 automatically liquidate. But my understanding is the majority
20 of them will roll over typically.

21 Q Okay. And is the theory of this banking product
22 typically that people would leave the money in the CD for the
23 time period which they purchased?

24 A Yes. So a CD generally will offer a higher
25 percentage interest rate than a savings account would. So it

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Zach Scrima - Direct Examination

1 will earn the holder of the CD, the purchaser, a little bit
2 more money than just having their money in a savings account
3 would. And also, oftentimes, the CD will have early withdrawal
4 penalties. So if you take it out two weeks after you buy it,
5 they'll actually charge you a penalty for not keeping it for
6 the full term.

7 Q Can you go ahead and explain Government's 160. And I
8 think that you labeled this the Typical CD Purchase Flowchart.

9 A Sure. So this is a flowchart I created just kind of
10 based on my general knowledge of how a purchase of CD might
11 work in a normal transaction. So we start with just a
12 fictitious character, John Doe, here on the document left. And
13 he's got a USAA member number, and he wants to purchase a CD
14 for a hundred thousand dollars from USAA.

15 He would -- he could go, I guess, probably over the
16 phone, definitely online to do this. And in doing that, he has
17 to provide some sort of funding information to USAA to pay for
18 this CD. And in this example, he uses a account number 112233
19 at Any Bank, provides that bank's routing number and that --
20 his account number that he has with that bank, and that causes
21 two things.

22 So USAA is then funding the CD with that purchase,
23 and in return, USAA makes an ACH request to John Doe's bank at
24 Any Bank saying, "Please pay us a hundred thousand dollars for
25 the purchase," and then Any Bank through the ACH process would

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Zach Scrima - Direct Examination

1 conditionally credit USAA the money, and the -- you know,
2 presuming there's no problems with his bank account at Any
3 Bank, there's -- it's fully funded. There's at least a hundred
4 thousand dollars in it, and it's a valid bank account.

5 That would be the end of the process, and the CD
6 would be purchased. USAA would have their money for the CD,
7 and John Doe would have his CD.

8 Q Okay. And so I'm going to show you No. 2 of your --
9 Government's Exhibit 160.

10 A Okay.

11 MS. DAVIDSON: If I might have a moment, Your Honor.
12 BY MS. DAVIDSON:

13 Q And so explain, you labeled this one "Randall Beane
14 USAA Accounts Flowchart," and this is in reference, "Indictment
15 Count 6." Can you start -- this is the bank fraud in this
16 case?

17 A It's a -- yeah, it's a general flowchart of the
18 general scheme from this case.

19 Q Okay. And so tell me what happens here.

20 A So we'll start again with the bottom left. We have
21 Randall Beane and his USAA member account number. And he on
22 July 5th, 2017, between 10:32 p.m. and 12:39 a.m., which would
23 be the morning of July 6th, he purchases approximately 29 CDs
24 totaling over \$28 million from USAA.com over the Internet.

25 Q What is the little box down below that?

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Zach Scrima - Direct Examination

1 A That -- that just highlights that over the
2 cumulative -- the two days of July 5th and July 7th, his
3 account purchased 32 CDs totaling over \$31 million.

4 Q Okay. And so what -- what routing number did he use?

5 A He used the routing number of a Federal Reserve Bank.

6 Q Okay. And then he used a account number that -- do
7 you have his account number on here?

8 A Yes. If you look in the -- sort of above his name
9 and the dotted line. So that's showing that it -- when
10 purchasing these CDs, he gave USAA the routing number of the
11 Federal Reserve and an account number 244391135, which, of
12 course, is just one digit off his Social Security number.

13 Q Okay. And so once he purchased the CD, can you
14 continue explaining of the CDs based on -- that he purchased on
15 the 5th?

16 A So he purchased the CDs online on the 5th and the
17 early morning of the 6th. USAA immediately fulfills those CDs,
18 they fund the CDs, as they do to sort of make immediate
19 processing of the CDs for their -- the benefit of their
20 members. And then they follow this up with an ACH -- they
21 request an ACH from the Federal Reserve for the payment of
22 these CDs, which causes the Federal Reserve in return to pay
23 USAA the funds via the ACH system, which is more or less
24 automatic, and they're conditionally crediting USAA for the
25 CDs.

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Zach Scrima - Direct Examination

1 Q Okay. And then what happens -- I think you're
2 getting ready to explain the blue square. What happens next on
3 the 6th?

4 A So -- so now that Randall Beane has the CDs and his
5 member account. On July 6th, you see the next solid arrow, he
6 withdraws the funds through -- via the telephone, so he closes
7 two of the CDs and has the funds cashed into his -- or
8 transferred into his checking account with USAA.

9 Q Okay. And then what happens on the 6th?

10 A Well.

11 Q And 7th?

12 A In addition, so continuing on to the right, on that
13 same day, the 6th and then the following day, the 7th, there
14 are numerous external transfers and purchases made from his
15 USAA accounts.

16 Q Okay. And what happens on the 6th with the Federal
17 Reserve?

18 A Well, between the 6th and the 7th --

19 Q You're talking about your red lines now?

20 A Yes. The top red line. That shows that between the
21 6th and 7th, the Federal Reserve recalled those funds from
22 USAA. They realized that there was not -- that was a fake
23 account number that was provided to them, so they're telling --
24 basically pulling back the funds from USAA, which is within
25 their right. And as a result of that, USAA, between July 7th

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Zach Scrima - Direct Examination

1 and July 11th, attempts to retrieve the funds from the
2 closed-out CDs, Beane's accounts, and then also tried to get
3 money from Whitney Bank.

4 Q Okay. If we can move on to the next flowchart,
5 please. I think it's No. 3 of ours. Okay. And so this
6 flowchart references "500,000 CD Flowchart," which are
7 "Indictments Counts 1, 2, and 5."

8 And start with the Randall Beane and explain this
9 flowchart.

10 A Yeah. So it's -- this is an example of just the one
11 CD that he purchased for \$500,000. So it follows a very
12 similar pattern as I just went over. He purchases, on July 5th
13 at 10:32 p.m., a \$500,000 CD from USAA. Again, he uses the
14 Federal Reserve routing number and the account number that is
15 one digit off his Social Security number, which causes USAA to
16 request an ACH from the Federal Reserve.

17 Q Okay. Let's start right here. So Randall Beane, do
18 you -- where was Randall Beane located when he made this
19 purchase?

20 A From what I understand, he was at his home.

21 Q Okay. In Knoxville, Tennessee?

22 A Yes. On his Internet.

23 Q Okay. And the Internet purchase went where?

24 A He went to USAA Federal Savings -- USAA.com, which
25 would be their servers, which I understand to be in Texas.

UNITED STATES DISTRICT COURT

Zach Scrima - Direct Examination

1 Q Okay. And then go -- go forward with that.

2 A Okay. So, again, as mentioned before, this causes,
3 this is part of that ACH credit that was triggered that I
4 walked you through before. So that \$500,000 gets conditionally
5 credited from the Federal Reserve to USAA, and the CDs are --
6 the CD is funded by USAA.

7 Q Okay. And then if you're going on your solid black
8 line to the blue box, what happens on 7/6/2017?

9 A Yeah. So Randy Beane -- Randall Beane, over the
10 phone, telephoned, closes out that CD and transfers the cash
11 from the CD to his USAA checking account number ending in 3062.

12 Q Okay. And this was done on the 6th?

13 A Done on the 6th. Then for an amount just under
14 \$500,000, because there were penalties for the early withdrawal
15 fee.

16 Q And he did this from the phone. And where was
17 Randall Beane located?

18 A I understand he was at his home.

19 Q In Tennessee?

20 A Yes.

21 Q And then he called San Antonio, the USAA Bank
22 headquarters in San Antonio, Texas?

23 A That's how I understand, yes.

24 Q Okay. Is a telephone a wire in the legal sense?

25 A Yes.

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Zach Scrima - Direct Examination

1 Q Okay. And then continue on with your --

2 A A telephone call is a wire in the legal sense.

3 Q A telephone call, not a telephone. Thank you. And
4 then talk about what happens in the blue square.

5 A So as we mentioned, the funds were cashed into his
6 checking account 3062. That same very day, he makes two
7 transfers from his checking account to his USAA savings account
8 in the amounts of \$50,000 and \$450,000.

9 Q Okay. And then go to the purchase of the CD -- I
10 mean, the purchase of the motor home.

11 A Sure. And the following day after he makes those
12 transfers on July 7th, he purchases the RV with almost a
13 \$500,000 wire transfer from his savings account to Buddy Gregg
14 Motor Homes, which their bank is Whitney Bank in Louisiana.

15 Q Okay. And so this was done on the 7th?

16 A Yes.

17 Q And he made a phone call from Tennessee to Texas to
18 order this wire. Is that your understanding?

19 A It is my understanding, yes.

20 Q And then the federal -- Fedwire, does it affect
21 interstate commerce just in the actual process of going from a
22 bank in Louisiana to a bank in Texas or vice versa, bank in
23 Texas to Louisiana through the Federal Reserve?

24 A Yes. Between the fact that -- presuming those two
25 banks have servers in different states in addition to the fact

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Zach Scrima - Direct Examination

1 that the Federal Reserve has their processing in both Texas and
2 New Jersey.

3 Q So every Fedwire goes between at least Texas and New
4 Jersey based on going through the Federal Reserve?

5 A That's always been my understanding, yes.

6 Q Okay. And so explain the red lines now to me.

7 A So the first top red line is July 6th, July 7th, the
8 Federal -- Fed Reserve recalls the funds from USAA because they
9 realize it was a fake account that was drawn from, and they do
10 it within a timely manner, so it's their rights to recall those
11 funds from USAA. And on July 10th, USAA was -- unsuccessfully
12 attempts to retrieve the funds from Randall Beane's accounts
13 and also tried attempting to retrieve the funds from Whitney
14 Bank. But at that point, the funds had already been spent.

15 Q Okay. And is it your understanding that Mr. Beane's
16 account was actually frozen on the 7th?

17 A I believe so, yes.

18 Q Okay. If we could go to the next flowchart. Okay.
19 And what is this flowchart? It's "Randall Beane 999,000 CD
20 Flowchart, Indictment Count 3 and 4."

21 A Yes. So this is a diagram of his purchase of the
22 999,000 CD on July 5th at 10:55 p.m.

23 Q Okay. And so he purchases it at 10:50 -- and so you
24 start the little blue guy, Randall Beane, USAA member number.
25 And straight line is what you just described as the purchase.

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1 And then what's the green box?

2 A The green box is him purchasing the CD on USAA.com
3 over the Internet.

4 Q And he uses the same account number and routing
5 number that he did with the other CD?

6 A He did, yes.

7 Q Okay. And then what happens on the 6th with the
8 Federal Reserve?

9 A Well, the Federal Reserve conditionally credits USAA
10 for those funds as part of the ACH request from USAA that was
11 triggered by Randall Beane.

12 Q Okay. And with regard to the purchase of the CD, was
13 the one -- the 5th was -- just like you testified on the last,
14 was it done over the Internet?

15 A It was done over the Internet. It looks
16 approximately 23 minutes after the previous one we walked
17 through, yes.

18 Q And Randall Beane was in Tennessee?

19 A He was to my knowledge, yes.

20 Q And the -- the Internet went to Texas?

21 A Yes. It would have gone to USAA servers in Texas.

22 Q Okay. And so then explain what happened after that.

23 A Well, once he has purchased the CDs, which is late
24 evening on July 5th, July 6th rolls around, he cashes out, he
25 closes out this CD, and he transfers the cash minus the

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1 penalties and fees for just over -- just under \$999,000 to his
2 USAA checking account numbers ending in 3062.

3 Q So for Count 4, he called in to the bank again?

4 A Yes, he did.

5 Q And so he was in Tennessee and he called Texas?

6 A That's my understanding, yes.

7 Q Okay. And then what happened? Go to your gray box.

8 A So from -- once he has the funds in his checking
9 account, the first one going directly to the right -- arrow
10 directly to the right shows that that same day and the
11 following day, he spends approximately \$53,560 on bill and loan
12 payments, retail charges using his debit card and making
13 transfers to individuals.

14 Q Okay.

15 A And also on July 7th, he makes a debit card charge
16 to -- of \$10,000 to Buddy Gregg RVs and Motor Homes.

17 Q Okay. And then what are the red lines again?

18 A Same thing. Same fact pattern, the 6th and 7th --
19 between the 6th and 7th, the Federal Reserve recalls the funds
20 because it's a fake account, and USAA returns the funds. And
21 then on July 10th, USAA is able to retrieve the remaining
22 amount in his account ending in 3062, which amounted to just
23 over -- it's \$945,000.

24 Q Okay. And I'm going to go back to that flowchart
25 that is our 3rd. And if you go to the red line, was USAA

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1 successful in retrieving the funds that were sent by Fedwire to
2 Buddy Gregg Motor Home?

3 A No. By the time they had frozen his accounts and
4 tried to retrieve the funds, he had already moved the funds
5 from his USAA savings account to Buddy Gregg's account at
6 Whitney Bank via wire transfer, and USAA was unsuccessful in
7 retrieving those funds at that point.

8 Q Okay. And from your review of the financial
9 documents, is it your understanding that USAA Bank took a loss
10 of that amount and more?

11 A That is my understanding, yes.

12 Q Okay. So what is ACH fraud?

13 A Well, it's a type of bank fraud that essentially uses
14 the ACH system to steal funds.

15 Q Okay. And is that a type of bank fraud?

16 A Yeah. I would say that it would be a subset of bank
17 fraud, yes.

18 Q And in your career being a forensic accountant, are
19 you familiar with various ACH fraud schemes?

20 A Yes. I've been -- I've investigated them before, and
21 I'm aware of them, yes.

22 Q And what is a typical component to these?

23 A Well, speed is always the number-one component. You
24 know, I -- it takes advantage of the vulnerability of the
25 system. As we've heard, ACH is basically an automatic transfer

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1 between banks, and it only takes one to two days to settle,
2 which means it's a very quick process. The funds move fast and
3 actually faster than the other bank, the sending bank might
4 have time to verify that that was a -- that each one of those
5 transactions are a valid transaction. In fact, they have a
6 couple days beyond the settlement date of those funds to verify
7 whether or not that was a legitimate transaction or one of
8 those batch transactions was legitimate.

9 Q Okay. And is it your experience that fraudsters
10 attempt to exploit the weekends and holidays?

11 A Yes. It's a common practice in ACH fraud and many
12 bank frauds. The idea is that if you commit fraud when the
13 bankers are sleeping, they can't -- they don't know about it
14 till they wake up. Or if they're out on the lake fishing on a
15 Saturday, they're not -- they can't find about that fraud till
16 they get in the office on Monday, because it's well-known that
17 banks are closed on Saturdays or weekends, I would say, and
18 holidays.

19 Q And can I use the Elmo. It's not -- it's just the
20 calendar.

21 And this is the calendar from July 2017. And so
22 the -- paying his accounts -- paying his bills with his real
23 Social Security number and the federal routing number occurred
24 on the 3rd?

25 A That's my understanding, yes.

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1 Q And then what is July 4th?

2 A That's a -- that is what we would call a bank
3 holiday. As everybody knows, the Fourth of July, all banks are
4 closed.

5 Q And then the Fedwire went through when?

6 A The Fedwire to Buddy Gregg RV went through on
7 July 7th, Friday.

8 Q Okay. And then what is the 8th and 9th?

9 A That's a weekend.

10 Q And was that -- and then what's the 10th?

11 A The 10th is Monday, that would be when the bank
12 reopens from the weekend, yes.

13 Q And is the 10th when USAA tried to recall the money?

14 A That's when they -- yes, that's when they tried to
15 recall the money from Whitney Bank.

16 Q Okay. What -- what is the -- every man's definition
17 of money laundering?

18 A Very basic definition I would give is taking --
19 making financial transactions with funds derived from criminal
20 proceeds with an intent to hide or disguise the origin of those
21 funds.

22 Q Okay. And in your experience of ACH fraud, is it --
23 in your experience, do people often call the bank?

24 A So at what point? Well, yes, there are times when --
25 for example, if a recipient bank of a wire transfer from

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1 fraudulent funds receives a hold harmless letter, or they are
2 contacted by a law enforcement agency saying the funds you
3 received in this customer's account of yours is derived from a
4 fraud, can you please not move -- can you please hold those
5 funds.

6 I have experienced in my other investigations where
7 at times the perpetrators of the fraud will be very aggressive
8 by calling the bank, providing documentation, trying to
9 convince that bank that those funds are legitimate and that
10 they should be released.

11 At the end of the day, they want their money. At
12 that point, they're very close to obtaining their funds and
13 getting away with those funds.

14 MS. DAVIDSON: May I have a motion, Your Honor?

15 THE COURT: Yes.

16 MS. DAVIDSON: That's all I have of this witness.

17 THE COURT: Thank you.

18 Cross-examination?

19 MS. TUCCI-JARRAF: Okay.

CROSS-EXAMINATION

20
21 BY MS. TUCCI-JARRAF:

22 Q Without prejudice, I have a few questions.

23 Hi. Do you pronounce your name Scrima?

24 A Scrima.

25 Q Scrima. Excuse me. I apologize.

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1 A That's okay.

2 Q I have a difficult last name, too, that nobody can
3 seem to pronounce. I just have a few questions regarding your
4 past, just to clarify a little bit.

5 A Sure.

6 Q You have some dashed lines here. On Exhibit 160, you
7 have dashed lines that go from John Doe to John Doe Account at
8 Any Bank. Correct? See the dashed lines?

9 A Yes. Yeah.

10 Q Okay. What do the dashed lines, what are you using
11 that to indicate?

12 A That's representing that he is using his bank account
13 at Any Bank, account number 112233 to -- for -- to purchase the
14 CDs from USAA. So he's given USAA those account -- that
15 account information for them to fund the CDs with.

16 Q Okay. So the dashed lines that you're using really
17 don't have a significant indication as opposed to using a
18 straight line or --

19 A It's just to delineate the difference between
20 movement of his actions, his actions.

21 Q Okay.

22 A That's -- it's -- his action was entering the routing
23 number, but in the background, what happens once he enters the
24 routing number and the account number of the Federal -- or
25 excuse me, of Any Bank, USAA draws the money from Any Bank.

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1 Q Okay. So it was to distinguish actions?

2 A It's really just not to -- to some extent, it's just
3 to keep things from getting too confusing with all the same
4 type of arrows. In other words, if they're all black straight
5 arrows, it would be a little more challenging to walk through
6 the flowchart, so --

7 Q Okay. So for that transaction with the dashed lines
8 there --

9 A Yes, uh-huh.

10 Q -- that typically wouldn't be something that's seen
11 except for by the person that's actually on the site putting
12 that information in?

13 A Well, right. So John Doe would be the one physically
14 giving the information to USAA, either online or over the
15 phone. However, he's purchasing the product, and he would be
16 passing that information, the routing number and the bank
17 account number.

18 Q And with every action of that, were you able to see
19 what screenshots this -- in this particular instance, John Doe,
20 USAA member would use as far as creating these CD accounts,
21 like a creation, verification, authentication?

22 A Well, this is a fictitious example that I created, so
23 I guess I could create fictitious examples of bank screenshots,
24 but I didn't do that.

25 Q True. I'm just asking if this is -- is this to

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1 indicate stuff that -- the actions -- you wouldn't be able to
2 see if someone showed you John Doe and a CD, you just see the
3 person and the end product?

4 A If that's all you put in front of me, sure, that's
5 all I would see.

6 Q Okay. And in this particular case, regarding
7 Mr. Beane, did you see all the actions and steps that were
8 taken?

9 A I saw a significant amount of documentation, sort of
10 account documentation from USAA and Whitney Bank, yes.

11 Q Okay. So you were able to review those?

12 A Yes.

13 Q Okay. And then just to clarify, and in this case,
14 the dashed lines are the same thing, just to differentiate for
15 explanation?

16 A It's the same -- sorry.

17 Q Oh, there we go, the dashed lines?

18 A For the most -- yeah, it's just to kind of keep
19 things consistent so it's easier to follow.

20 Q Okay. And then as far as these red lines --

21 A Yes.

22 Q -- that you have going from USAA to Federal Reserve,
23 and then Randall Beane accounts to USAA Federal Savings Bank,
24 are those -- do those have a significance, or is that just to
25 differentiate too?

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1 A Well, the actions are significant. But, again, just
2 if you're asking about the lines being red, again, that was
3 something I kind of changed after I -- I initially did this all
4 on black solid lines, and it was very confusing to follow how
5 it went. So I changed those lines to red so that you saw they
6 kind of matched, they flowed together.

7 The significance of them both being red would be that
8 after, you know, the Fed recalls the funds and that kind of
9 triggers USAA to then attempt to retrieve the funds. So
10 there's sort of a cause-and-effect relationship between those
11 two actions.

12 Q And that's what the colored arrows that are --

13 A Yes, it's just a -- exactly. It's just to keep it
14 from being too confusing.

15 Q Were you able to review the USAA attempts to -- the
16 documentation that they made to retrieve the funds?

17 A Well, I saw -- I guess -- I saw the funds that were
18 retrieved. I saw the documentation that showed that that
19 happened, yes.

20 Q Okay. And per -- are these dates accurate, then, as
21 far as -- per the data you reviewed -- well, that will go into
22 the next -- I believe the next one you showed. Let me finish
23 with this one.

24 On here, it indicates that on 7/6 to 7/7/2017, that
25 there were Fed recalls of the funds. Were you able to see that

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Zach Scrima - Cross-Examination

1 documentation of the actual Fed recalls?

2 A No, I don't -- I don't know that I saw that actual
3 documentation.

4 Q Okay. And when you say you weren't able to, that
5 documentation, was that for just the CDs, the recall, the Fed
6 recalls for the money to the CDs?

7 A So I guess I didn't see any of the ACH transactions
8 between USAA and the Federal Reserve. I don't believe I did.
9 It's possible. There was a lot of documentation. I looked at
10 a lot of stuff, so I don't want to say I did or didn't for
11 sure, but --

12 Q Okay. Thank you. And, however, all transactions --
13 all the ACH that Mr. Beane had done was from 7/5 -- excuse me,
14 I think you said 7/4 -- July 4th through July 6th for the CDs?

15 A No. July 5th and July 7th -- well, the evening of
16 July 5th, early morning of July 6th, he purchased CDs on
17 USAA.com, and then again on July 7th, he purchased some
18 additional CDs.

19 Q Some additional CDs?

20 A Yes.

21 Q Okay. And -- okay. On this particular page, this is
22 160-3, Exhibit 160-3. It says per the data that you've
23 reviewed, you had stated that USAA had frozen the accounts for
24 Mr. Beane, do you recall what date the freezing of those
25 accounts occurred?

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Zach Scrima - Cross-Examination

1 A My understanding that they were frozen on July 7th,
2 which is Friday, sometime after the wire transfer was sent from
3 his savings account to Buddy Gregg. That's my understanding.

4 Q Okay. And that's your understanding from the
5 documentation you reviewed?

6 A From -- I don't know if it was documentation or from
7 testimony or from other records that I've seen. I'm not sure
8 exactly where I saw that.

9 MS. TUCCI-JARRAF: I don't believe I have any other
10 questions. Thank you, Mr. Scrima.

11 THE COURT: Thank you.

12 Mr. Beane, cross-examination?

13 **CROSS-EXAMINATION**

14 BY MR. BEANE:

15 Q I just have one question for you, Mr. Scrima.

16 You keep -- the prosecutor keeps bringing up
17 July 3rd. I don't see July 3rd anywhere on these graphs. Is
18 that --

19 A That's correct. They are not included in this --
20 these flowcharts.

21 Q Did you see anything happen on July 3rd?

22 A If I recall correctly, I don't have your statements
23 in front of me, but there were, I believe, purchases, bill
24 payments made on that -- on or before, around that time, yes.

25 MR. BEANE: Okay. All right. No further questions.

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Zach Scrima - Cross-Examination

1 THE COURT: Thank you.

2 Redirect?

3 MS. DAVIDSON: No, Your Honor.

4 THE COURT: All right. Thank you. This witness may
5 be excused.

6 MS. DAVIDSON: Your Honor, at this time, the United
7 States rests.

8 THE COURT: All right. Thank you. The government
9 has rested on its case in chief.

10 Why don't we do this, before we switch things over,
11 let's go ahead and let the jury take a little bit earlier
12 afternoon break than normal. We'll excuse the jury for a
13 break.

14 (Jury out at 2:23 p.m.)

15 THE COURT: All right. Everyone may be seated. Any
16 motions from the defendants or otherwise ready to proceed
17 forward with case in chief?

18 MR. LLOYD: I think both defendants want to make
19 their motions, Your Honor. Ms. Tucci-Jarraf asked if she might
20 have a couple of minutes to run to the hall.

21 THE COURT: That would be fine. Why don't we go
22 ahead -- let me ask this -- can I ask you a few questions, or
23 do you -- you got a couple minutes?

24 MS. TUCCI-JARRAF: A few.

25 THE COURT: Okay. Give the defendants an opportunity

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1 to make any motions then. Do the defendants anticipate making
2 opening statements? We've talked about that. You deferred
3 your opening statements.

4 MS. TUCCI-JARRAF: I believe with -- still without
5 prejudice, that Mr. Beane is going to be doing his case first.

6 THE COURT: You're going to go first, Mr. Beane?

7 MS. TUCCI-JARRAF: And then I'm going to defer my
8 opening until after he's made his case.

9 THE COURT: Are you going to give an opening
10 statement, Mr. Beane?

11 MR. BEANE: Yes.

12 THE COURT: All right. We were going to give you up
13 to 20 minutes. Is that sufficient time?

14 MR. BEANE: Yes.

15 THE COURT: I remind you opening statement is what
16 you anticipate the evidence to show, not an argument.

17 MR. BEANE: Yes.

18 THE COURT: What about witnesses? Do you intend to
19 call yourself?

20 MR. BEANE: Yes.

21 THE COURT: Any other witnesses besides yourself?

22 MR. BEANE: No.

23 THE COURT: Why don't we -- we probably at least have
24 time for that today. I don't think we'll finish the cases
25 today. So why don't we -- with that in mind, why don't we take

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1 a recess, come back in and hear motions -- take about a
2 ten-minute recess, come back and hear motions, and then bring
3 the jury back in and start with Mr. Beane's case and opening
4 statement and case in chief.

5 All right. Thank you.

6 (Recess from 2:26 p.m. to 2:39 p.m.)

7 THE COURTROOM DEPUTY: This honorable court is again
8 in session. Please come to order and be seated.

9 THE COURT: Thank you. Motions by the defendants?

10 MS. TUCCI-JARRAF: Without prejudice, Heather Ann
11 Tucci-Jarraf, and this is in regards to a Rule 29. And this is
12 a three-part --

13 THE COURT: If you'll make it from the podium,
14 please.

15 MS. TUCCI-JARRAF: Oh, I apologize.

16 Can you hear me up here?

17 THE COURT: Go ahead.

18 MS. TUCCI-JARRAF: Without prejudice, this is
19 regarding a Rule 29 and this will be a three part.

20 MS. DAVIDSON: Your Honor, to be clear, is she only
21 addressing Count 7, which is what I think is appropriate?

22 THE COURT: That's what --

23 MS. TUCCI-JARRAF: I can only account --

24 THE COURT: Count 7 as to you is what you --

25 MS. TUCCI-JARRAF: Yeah.

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1 THE COURT: Okay. Great.

2 MS. TUCCI-JARRAF: Yeah.

3 THE COURT: Bringing a Rule 29 --

4 MS. TUCCI-JARRAF: Unless there's more that she's
5 done that I don't know about.

6 THE COURT: Go ahead.

7 MS. TUCCI-JARRAF: Okay.

8 THE COURT: Rule 29 motion as to Count 7 of the
9 indictment as to Ms. Tucci-Jarraf.

10 MS. TUCCI-JARRAF: Okay. So the first part is, I
11 said there were three parts. So the first part was the
12 document on the clerk's records, Document 101 and 102, which
13 were filed on January 23rd, prior to jury selection, which is
14 also -- we handled it orally prior to a jury selection being
15 done, and that would be Document 101, Standing Praecipe
16 Declaration of Due Cause and Judgment and Order of Dismissal,
17 and I am restating and incorporating by reference the entire
18 document as set forth in full.

19 THE COURT: All right. That's part one.

20 MS. TUCCI-JARRAF: No, that's -- okay -- part 1A.
21 And then part 1B is Document 102, which was Praecipe and Notice
22 of Standing of Notice and Filing of -- excuse me, Standing
23 Declaration, which was also filed on January 23rd, 2018, prior
24 to jury selection in this trial. And I'm restating and
25 incorporating by reference as set forth in full the entire

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1 document.

2 Okay. And number two, we go to Rule 20 under Rule
3 29, the government has closed the evidence for their case in
4 chief, and they are required to provide -- or excuse me, to
5 produce evidence sufficient to sustain a conviction.

6 And I'm stating that they have not produced evidence
7 for which a jury would be able to make judgment of a conviction
8 and that the evidence is sufficient to sustain that conviction
9 in this matter.

10 And, specifically, that there was any agreement
11 between Mr. Beane and myself, there's been nothing produced on
12 that at the time that the events occurred of alleged money
13 laundering, alleged transactions from -- regarding Federal
14 Reserve, USAA, et cetera, that nothing has been submitted
15 showing that prior to July 8th, there was any communication
16 presented by any of the state's witnesses at all.

17 And all those transactions had actually already been
18 done before I had even spoken to any of the witnesses that had
19 been presented.

20 Furthermore, there's been insufficient evidence as
21 regards to the element of intention, which is required for
22 conspiracies to money launder or conspiracy of Count 7, and
23 that there's an intention to commit the crime and do the
24 charge.

25 Again, every single date that was presented, all the

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1 testimony was after July 7th, and there was no intent, period,
2 provided in regards to myself trying to commit or hide
3 anything, but was rather trying to protect and make sure
4 everyone had documentation at that point.

5 So at this time, pursuant to those praecipis,
6 Document 101, 102, as well as the lack of insufficient evidence
7 to show agreement, as well as the elements of intent to commit
8 Count 7, I stand that this -- that this case should be
9 dismissed against myself, Heather Ann Tucci-Jarraf.

10 THE COURT: Thank you.

11 Mr. Beane, do you want to present a motion?

12 MR. BEANE: Can I have a minute?

13 THE COURT: Do you want to talk with Mr. McGrath?

14 MR. BEANE: Yes. Thank you.

15 THE COURT: Why don't we do this, Ms. Davidson, while
16 giving Mr. Beane a few moments, why don't you go ahead and
17 respond to Ms. Tucci-Jarraf's Rule 29 motion.

18 MS. DAVIDSON: Yes, Your Honor.

19 THE COURT: On behalf of the government.

20 MS. DAVIDSON: Your Honor, as this Court is aware,
21 Count 7 alleges conspiracy to commit money laundering, and it
22 says in or on or about July 2017. It is not contained by a
23 specific date.

24 And the evidence is clear in this case that Jerald
25 Byrne testified that Randall Beane told him on July 7th that

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1 his attorney, Ms. Tucci-Jarraf, had advised him that these
2 documents need to be put in trust.

3 It's our position that those trust documents which
4 she provided were further ways in which she sought to assist
5 him in hiding the money, committing bank -- money laundering.

6 She also talked to Mr. Dwayne Griffith on the 8th.
7 And in that conversation, she tells him that -- I'm sorry,
8 Randall Beane tells Dwayne Griffith on the 8th that his
9 attorney, Heather Ann Tucci-Jarraf, has advised him that those
10 funds should be in a Fedwire and not a check, thus attempting
11 to launder more money with the Ted Russell Ford purchase.

12 And then on the 10th, as both defendants learned that
13 USAA is attempting to claw back the Fedwire, which was already
14 completed, she went through multiple phone calls and provided
15 documents at length to try to get the transaction to go
16 forward. And we believe that this meets each and every element
17 of the conspiracy to commit money laundering.

18 While there's not a document that proves the
19 agreement between the two, it is clear by the circumstantial
20 evidence in this case.

21 And if you look at Rule 29, it requires that the
22 evidence must be viewed in the light most favorable to the
23 United States. And based on that, we believe the Rule 29 with
24 regard to Count 7 should be denied.

25 THE COURT: All right. Thank you.

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1 Mr. Beane, are you ready to present your motion?

2 MR. BEANE: I also want to do a Rule 29 motion.

3 THE COURT: All right. If you'll come up to the
4 podium then.

5 MR. BEANE: I'm sorry.

6 THE COURT: Thank you.

7 MR. BEANE: I also want to do a Rule 29 motion as far
8 as Counts 1 through 7 are concerned. I do not believe that all
9 the elements have been or the charges have been met,
10 specifically the element of intent. I also want to --
11 Document 101, I want to adopt that.

12 THE COURT: 101 and 102?

13 MR. BEANE: Yes.

14 THE COURT: Adopt the argument --

15 MR. BEANE: Yes.

16 THE WITNESS: -- made by Ms. Tucci-Jarraf?

17 MR. BEANE: Yes.

18 THE COURT: Anything else?

19 MR. BEANE: No.

20 THE COURT: All right.

21 Ms. Davidson, would you like to respond to Defendant
22 Mr. Beane's Rule 29 motion?

23 MS. DAVIDSON: Yes, Your Honor. I -- I reiterate the
24 discussion that I made regarding Count 7 regarding the
25 agreement between the two parties.

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1 And, further, with Mr. Beane purchasing the RV, the
2 clear attempt, the evidence shows, of money laundering, and he
3 performed the Fedwire, which he knew, based on his
4 conversations with Ms. Tucci-Jarraf was extremely hard to call
5 back. And so he was seeking to hide his ill-gotten gains with
6 the purchase of an asset.

7 The intent is shown in this case for 1 through 6,
8 based on many things, the fact that he was -- the speed with
9 which he created these transactions, the greed in which he
10 committed these transactions, \$31 million worth of CDs.

11 Nowhere in that video, which has been referenced at
12 length, the Harvey Dent video, did it talk about purchasing CDs
13 worth \$31 million and closing them all out. That was
14 Mr. Beane's scheme. And he accomplished it extremely well,
15 which is why USAA Bank has such a huge loss.

16 If you look at each of the elements, we've met all of
17 the jurisdictional requirements. We've shown that the elements
18 of USAA Bank, that it was FDI insured, and we've proved all the
19 wire transactions.

20 And based on that and the intent that we believe is
21 shown by the circumstantial evidence in this case, we ask Rule
22 29 be denied with regard to all seven counts to Mr. Beane.

23 THE COURT: All right. Thank you, everyone, for your
24 arguments. The Court, in the interest of time in part, will
25 take the motions under advisement and issue a ruling sometime

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1 hereafter.

2 So that -- motions having been made, then, Mr. Beane,
3 you're ready to proceed forward with your case in chief.

4 MR. BEANE: Yes.

5 THE COURT: All right. We'll bring the jury back in
6 and you'll have the opportunity to make an opening statement,
7 what you said you indicated you would like to do. And you
8 indicated further you'd like to call yourself as a witness.

9 MR. BEANE: Yes.

10 THE COURT: And remind you that you'll -- as a
11 witness, since you won't have an attorney or yourself asking
12 you questions, you'll be able to give a factual narrative, but
13 it needs to be a fact-based narrative, not an argument, like a
14 closing argument.

15 MR. BEANE: Okay.

16 THE COURT: You understand that. And, you know, the
17 government's counsel will have the opportunity to, I guess,
18 interrupt your factual narrative to make objections if they
19 think you're offering testimony that's not relevant.

20 Just by way of example, if the government makes an
21 objection, if you'll just pause and give me an opportunity to
22 rule on any objection that might be made.

23 MR. BEANE: Okay.

24 THE COURT: All right. Let's go ahead and bring our
25 jury back in. Might take a minute to get them lined up, so you

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1 can come on up to the -- well, why don't you just wait,
2 Mr. Beane. We'll wait until they come in.

3 (Jury in at 2:53 p.m.)

4 THE COURT: Thank you. Everyone may be seated.

5 Remind members of the jury that immediately prior to
6 our break, the government rested on its case in chief.

7 The defendants now have the opportunity to present
8 whatever evidence they would like to as part of their
9 respective cases in chief. The defendant, Mr. Beane, has opted
10 to go first.

11 You'll also recall that the government made an
12 opening statement, but the defendants both reserved the right
13 to make an opening statement at a later point in time, i.e., at
14 the beginning of their case, so Mr. Beane has the opportunity
15 to make an opening statement at this time.

16 And I'll remind the jury, as I did prior to the
17 government's opening statement, that opening statements are not
18 evidence, but this is the defendant Mr. Beane's opportunity to
19 present an opening statement to you as what he believes the
20 evidence, at least from the standpoint of his case in chief,
21 will show in this case.

22 Mr. Beane, you can proceed forward with opening
23 statement.

24 (Whereupon, Defendant Beane's opening statement was had
25 and reported but not herein transcribed.)

UNITED STATES DISTRICT COURT

1 THE COURT: Thank you. And we discussed this during
2 break, but you would like to call yourself as a witness in this
3 case.

4 MR. BEANE: Yes, sir.

5 THE COURT: If you'll take the stand. Let me remind
6 the jury -- you can go ahead and take the stand. Mr. Beane, as
7 you know, has decided to represent himself in this case. So in
8 that regard, there won't be someone asking him questions and
9 then his giving answers. Instead, the Court has allowed him to
10 give a factual narrative as his testimony in this case.

11 And then after he is done with that, which in effect
12 would be his direct examination, then counsel would have the
13 opportunity to cross-examine through questions.

14 So we'll now swear in this witness.

15 THE COURTROOM DEPUTY: Raise your right hand.

16 WHEREUPON,

17 **RANDALL KEITH BEANE,**
18 was called as a witness and, after having been first duly
19 sworn, testified as follows:

20 **DIRECT EXAMINATION**

21 THE COURTROOM DEPUTY: Have a seat, please.

22 THE COURT: Mr. Beane, you can proceed forward with
23 your testimony via factual narrative.

24 MR. BEANE: Do I need say and spell my name like
25 we've been doing?

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Randall Keith Beane - Direct Examination

1 THE COURT: That's okay. You can just go ahead right
2 into your testimony.

3 MR. BEANE: I wanted to start out a little bit of my
4 background and kind of lead into why I'm even in this courtroom
5 today.

6 I grew up in North Carolina on a farm with my
7 grandparents. Actually, both sets of my grandparents had
8 farms, so I grew up with a lot of the respect of things that --
9 like gardening where, you know, we raised gardens to where we
10 had enough produce in abundance to supply food for a lot of
11 families in the area that didn't have the ability to have a
12 garden or have food like we did. So we -- I was raised to
13 share things in a way that my grandparents taught me.

14 I learned at an early age that I liked to dissect
15 electronics. I would find old telephones, clock radios, VCRs,
16 it didn't matter, as long as it had a cord going to it, I was
17 going to pull it open and find out the guts inside and what
18 made it work. And that eventually led into me being interested
19 in computers.

20 And after realizing at the time period, that this --
21 the time period was in the early -- late '70s, early '80s, when
22 I became interested in this. There wasn't a lot in computers.
23 But by the time I got into high school, the first year -- well,
24 first, I think it was either eleventh or twelfth grade was the
25 first year that they had data processing classes, which it was

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1 a class where we learned basic computer programming. And it
2 was -- I was so excited to sign up for that class, because it
3 was something that I felt like that I could do.

4 So once I got into the class and realized that -- one
5 day, the teacher came to me, she said Randy, "I need to talk to
6 you after class."

7 I was like, "Oh, no."

8 She came to me, she said, "You're doing so good in
9 this class, she said you can almost teach this class better
10 than I do." She said, "I've talked to the principal and we
11 would like for you to maybe give up your study hall time and
12 come and be an assistant teacher in my class with me."

13 I was so excited. I was like, wow, I can't believe
14 this.

15 I did -- I -- a lot of the students in school were
16 coming to me, and it was exciting to be able to share something
17 with people that was very simple to me, but complicated to
18 them, and be able to share with them in a way that they
19 understood because I was on their level.

20 So when I graduated school and went into the
21 workforce, I graduated high school in '85, and, you know, back
22 then, factory jobs were the norm. When you got out of school,
23 if you didn't have a college education, a factory job was your
24 bread and butter, because they had benefits, they had ways of
25 increasing your worth as you worked.

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1 And that just didn't interest me. I tried it. It
2 didn't work.

3 So I really had this longing to be -- to do something
4 with computers. And so a buddy of mine talked to me about the
5 military. So I took the course, the ASVAB was the entrance
6 exam for the military, and I -- I won't say I aced it, but I
7 did really well on it, and was able to just about get any job
8 in the military I wanted, aside from college education, which
9 would be an officer. I could do anything that an enlisted
10 person could sign up for.

11 So I found out that they had an opening for a
12 electronics engineering and computer programming specialist. I
13 didn't know what that meant, but I liked the sound of it. And
14 so I ended up going to school in the mil -- in the Air Force
15 and graduated top of my class in electronics engineering and
16 computer programming.

17 And during the graduation period, I was investigated
18 by the FBI for a top secret clearance, which I was awarded.
19 Once I got that clearance and got out into the field in doing
20 my job, it took a few months before I realized what I was
21 really doing.

22 The top secret clearance, I didn't understand why I
23 needed it. But when I found out what I was doing on my job was
24 listening to phone calls of my fellow Americans, it bothered
25 me.

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1 It hurt me, because being from a country -- from the
2 country, where I'm from, you know, just your friends and
3 family, your neighbors, everybody trusts each other in a way
4 that you don't have to spy on each other, you don't have to
5 worry if somebody's coming to steal from you. We could leave
6 our doors unlocked at night. I mean, we did a lot. We didn't
7 have to worry about locking the house up tight or worrying
8 about things that people said or done.

9 But when I realized that here we were, keywords would
10 tag phone calls, like, let's just say, for instance, you're
11 giving directions to someone, and you say go down to the white
12 house and turn right, that might key your phone call to be
13 listened to. Well, this is in the early '90s when I'm doing
14 this.

15 So I'm letting my friends, my buddies know back home,
16 "Hey, don't say anything on a phone call you don't want the
17 government to hear."

18 And they're all thinking I'm crazy, because this is
19 unheard of. Who would spy on us?

20 And so that began a quest in me, like I said, at a
21 young age, I had a desire to dissect electronics, and that
22 desire only manifested as I got older in different areas.

23 Well, what happened was, while I was in the military,
24 I learned some things. One thing I learned about was our birth
25 certificate was actually printed on bank bond paper. Well, at

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1 the time that I heard that, it didn't mean a lot to me. But as
2 I became to learn some things and I wondered why is it printed
3 on bank bond paper.

4 Well, you may be wondering what bank bond paper is.
5 Think about a car title, think about a deed. They're all
6 printed on bank bond paper, and the reason is, is because they
7 have value to them, and you use those to gain value or to maybe
8 borrow money to purchase them.

9 So I had to wonder on occasion what does it mean to
10 have your birth certificate printed on bank bond paper? Well,
11 I don't know if you've ever heard of microprinting, but if you
12 take your original birth certificate and you look around in the
13 scrolling around the edges of it, you can actually take a
14 magnifying glass and read that it's printed on bank bond paper.

15 So that began my quest into some things that were
16 going on. Actually, my quest began when I was learning we were
17 spying on our American neighbors, and -- let me drink some
18 water here.

19 I also learned at the same time that -- back to
20 microprinting -- on our -- when you write a check, the
21 signature line on your check looks like a line, but if you take
22 a magnifying glass and look at that line, it's actually words.
23 I didn't know that. But when I realized that and you realize
24 there's little things going on that you don't see all the
25 time -- there's things right in front of your face that you

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1 can't see sometimes.

2 So I started learning, and I was telling some friends
3 the other day, I had gotten -- at one point, as I was getting
4 older and out of the military now, I started my own business
5 and I'm doing things, you know, there's things that came along,
6 like 9/11, and you just hear horror stories about our
7 government being involved in things that we wouldn't dream of.

8 We wouldn't dream of our government doing a lot of
9 things to us, but sometimes information comes to you, and you
10 just have to digest it and do what you can with it.

11 Well, one of the things that I learned at some point
12 was that birth certificate was actually a trust account held in
13 trust, like I asked the fellow earlier, a straw man account.
14 And I began to learn some things about the straw man account,
15 and I was doing a lot of research. I did years and years of
16 research on a lot of stuff. There was a lot of military -- my
17 military friends doing the same research, and I would run into
18 people who are doing the same research.

19 Well, I ran across an interview, and I started
20 listening to this program on Blog Talk Radio, and one of the
21 people who came on this radio show was Ms. Heather
22 Tucci-Jarraf, and she started sharing with us some things
23 that -- some investigations that she had held and things that
24 she had discovered.

25 One of the things she did was investigate the

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1 mortgage market. And you remember when all the home mortgages
2 and people were being thrown out of their homes, and we had
3 a -- 2008, the foreclosures, people were being thrown out on
4 the streets.

5 I mean, those things, when you have a heart for your
6 fellow Americans, you -- things like that, if you're not -- if
7 it doesn't happen to you, you don't really care, but when you
8 do know people it happens to, it affects you.

9 Well, things like that were affecting me because it
10 was happening to people I knew. And I started learning things
11 that -- for one, there were some military -- there was a
12 military general whose family had passed away, and he had
13 learned of the discrepancies and the fraud in the mortgage
14 documents, and to my knowledge, I think Heather was -- had
15 uncovered a lot of that fraud.

16 And so I built up a trust in listening to what she
17 had done, and I admired her for what she had found and what she
18 had gone through in order to help others see that.

19 And so she had brought up the fact that these
20 accounts were actually there and that they were -- we were the
21 value behind all the money in the world. And I had to -- you
22 know, that caught my ear. We're the value.

23 What does that mean? Well, let's go back to the
24 birth certificate. If the birth certificate -- if the birth
25 certificate holds the value, then who's holding that value?

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1 Who's gaining the value from it? I'm not. Somebody is.

2 And so when she told me that I was the value, and
3 that the trust was created to fund and that I could get into a
4 lot of different things, but there's a lot of things funded
5 that we don't know about, we have no idea.

6 And I saw a lot of that when I was in the military.
7 I saw \$10,000 hammers.

8 One of the expressions was made one time, "Well, why
9 do you need a \$10,000 hammer?"

10 "To drive a \$10,000 nail."

11 But, really, it's to hide money. Because if you can
12 spend \$10,000 on a hammer and it only costs \$5 and you don't
13 have to account for that other \$9,995, you can actually hide
14 money that way. And that's just an example. That's just an
15 example. There's a lot more going on like that.

16 So to fast-forward a little bit, going through a
17 period of time when I was researching some information that I
18 had, some information that I got from Ms. Jarraf and from other
19 various sources, she came on and told us that she had done this
20 paperwork -- I don't -- my mind is not -- I am very nervous, so
21 bear with me.

22 But when I heard what she had done, the factualized
23 trust papers is what -- the UCC documents is what they were.

24 MS. SVOLTO: Objection, Your Honor. The United
25 States filed a motion in limine regarding the relevancy of

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1 those documents.

2 THE COURT: I'll sustain that objection, so you don't
3 need to talk about that.

4 MR. BEANE: Okay. The documents that she told us --
5 she came on, this was December of 2012, she said, "Merry
6 Christmas." I think it was 2012 or 2011, she said, "Merry
7 Christmas." And as I got into reading the documents and the
8 wording, a lot of it just -- I could feel it energetically
9 inside me resonating to the point where it's like, yeah, this
10 makes sense.

11 And so that was in 2012. Here we are in 2017, and
12 Ms. Tucci-Jarraf and I have not ever had any communication
13 until 2017. And we -- it was just basically to catch up,
14 because we had -- we had a group of close friends who they all
15 went to Morocco together, they took care of some business over
16 there. There's a lot of things that were going on that I
17 wasn't privy to, but I understood what was taking place.

18 But anyway, Ms. Tucci-Jarraf and I had never really
19 communicated until spring of this past year, 2017, and it was
20 just basically catching up on how are you done, thank you for
21 what you've done.

22 And I had gotten into a situation in the summer in
23 July back in my hometown of Randolph County, North Carolina. I
24 got caught up in a court case, and ended up being illegally
25 jailed. And the first person I could think of to call when I

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1 got back home, because I ended up -- actually, they were going
2 to put me in jail for eight months.

3 A friend of mine helped me get an attorney while I
4 was in jail, and the attorney came to the jail. We talked for
5 two hours. When he left, he said, "I'll have you out of this
6 jail in the morning," and he did. Otherwise, I would have been
7 illegally jailed for eight months, and I only had to be there
8 for two to three weeks.

9 When I got out, I called Ms. Tucci-Jarraf, because
10 all I could think about was, this is not fair. Things are
11 going on that are literally not fair. But nobody -- I didn't
12 feel like I had a voice enough to make a difference, but I felt
13 like maybe I had contact with somebody who did.

14 So I contacted Ms. Tucci-Jarraf, and I let her know
15 the situation and her words were, she said, "Randy, that's the
16 old energy. Do you want to go back into that old energy and
17 stay there, or do you want to move forward and be creative?"

18 I said, "I like that, moving forward and being
19 creative."

20 Well, we hung up the phone and never thought about
21 anything else. And I went and signed on Facebook and saw this
22 video by Harvey Dent. And I listened to this for a minute, and
23 I was like, "Where did this come from?" It just appeared on my
24 Facebook page.

25 I listened to it, and I immediately called

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1 Ms. Jarraf, and I said, "I just found a video about the
2 accounts."

3 And so we talked about it, and she said, "It's -- you
4 know, it's what -- it's the documents that I've told you about.
5 It's -- it's your money." And so she said, "Go and be and do
6 with it. Go do what you will with it."

7 There was no plan by to us do anything together. I
8 simply went on my own accord and decided to try this out,
9 because I had a trust document showing me this account that had
10 been hidden for many years by -- and a lot of people have made
11 effort to find these accounts. Well, finally, here it is.

12 So I paid off some -- I think my insurance was first.
13 And I actually did that on -- I talked to Ms. Jarraf on the
14 4th. I called her and told her Happy Independence Day, and I
15 pointed in my heart. I said Happy Independence Day. We talked
16 for a little while.

17 And then, later that afternoon on the 4th, I saw the
18 video. I shared it with Ms. Jarraf. Like I said, we talked,
19 and she let me know that that had a lot to do with the
20 documents that she had filed.

21 And so like I said, I decided to go ahead and try it.
22 And I did. I paid my car insurance and it went through. I was
23 sitting there shaking, and I thought, wow, this is real.

24 If this -- and a matter of fact, I thought, you know,
25 if this wasn't real, I travel a lot with my job, I travel all

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1 over the United States. I stay at a different hotel every
2 night. Like I was saying the other day, with USAA, they have a
3 very high security protocol.

4 And so when I'm out on the road, and I get a phone
5 call and USAA is calling, "Mr. Beane, are you in Pennsylvania?
6 Did you just purchase gas?"

7 "No. How did you know?"

8 "Well, we just saw a purchase on your card and we
9 didn't think it was you."

10 Thank you for calling and telling me that."

11 Developed a trust in me that I felt like that I was
12 taken care of.

13 And so when I logged on the computer with this
14 account, and it went through, to me, in my thinking, the
15 security level is there, that if this isn't real, it ain't
16 going to work.

17 Well, when it went through, I felt like that the
18 security protocols had been met, and that everything was on the
19 up and up. There was no reason for me to try to fraud anybody.
20 I don't know anything about banking. Haven't the first clue.
21 I'm not interested.

22 But I'm interested in having financial freedom. I
23 think we all are. We've been -- we've all felt -- I've heard
24 many conversations of people feeling like they're in bondage to
25 their job. So financial freedom is exciting. Well, I thought

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1 I had found it.

2 And so then I began to think of things, and one of
3 the things that I thought of was the coach. I thought, you
4 know, I'm staying at a different hotel every night, I'm
5 spending a thousand to \$1500 a week on hotel rooms. I'm paying
6 \$2,000 a month for an apartment. As a matter of fact, at the
7 time, I was paying for two apartments. I thought, if I get a
8 coach, I can eliminate those hotel cost, I can move out of my
9 apartment, and I've got something to live in and be on the road
10 and do my job. I can continue to work, because I love my job.

11 So that was my intention in purchasing a coach. I
12 was excited about that. I saw a future with it. No intention
13 of hiding money. It was using it wisely in my eyes. That was
14 all the intention that I had.

15 And I -- if any one can attest to who I am, I'm not
16 greedy. I'm probably one of the most giving people that you'll
17 ever meet. If you need something and I know you need it, I'm
18 going to get it for you, I promise you with all my heart. And
19 if it means getting the truth for you, that's what I'm going to
20 do.

21 And that's what I vowed to do when I went into the
22 military was to protect our freedoms, protect who we are. And
23 I came out feeling defeated in that way after I learned what
24 was going on behind the scenes.

25 And it's still to this day going on behind the

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Randall Keith Beane - Cross-Examination

1 scenes. When you look at the news and you see things that are
2 shocking, we're getting ready to be revealed a lot of things
3 that are going to be shocking.

4 And I'm telling you, there's a picture being painted
5 in this courtroom that is not true. So please pay attention,
6 because the truth will shock you.

7 Thank you.

8 THE COURT: All right. Thank you, Mr. Beane. That
9 concludes your direct examination.

10 We'll now proceed to cross-examination, Ms. Svolto?

11 MS. SVOLTO: Yes, Your Honor.

12 **CROSS-EXAMINATION**

13 BY MS. SVOLTO:

14 Q Good afternoon, Mr. Beane.

15 A Good afternoon.

16 Q So let's start with some basics, let's see if we can
17 find what we actually agree on. So you don't dispute that you
18 live in Knoxville at 300 State Street?

19 A Not at all.

20 Q Okay. Apartment 365?

21 A No, ma'am. I tell everybody I live in heaven.

22 Q All right. You don't dispute that your Social
23 Security number is 24391135 [sic]?

24 A No, ma'am.

25 Q And you don't dispute that you initiated the

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Randall Keith Beane - Cross-Examination

1 transactions at -- with USAA Bank?

2 A No, ma'am.

3 Q So you agree that you used the Internet to access the
4 Federal Reserve, to take that money and put it in your account?

5 A Yes, ma'am.

6 Q So you agree that you did that?

7 A I sure do.

8 Q And you agree that you purchased over 30 super jumbo
9 certificates of deposits?

10 A Yes, ma'am.

11 Q And you agree that you almost immediately cashed
12 those CDs and put that money into your account?

13 A I don't know what you mean by almost immediately. I
14 can explain a little better on that if you'll allow me.

15 Q Sure.

16 A The night that I did the CDs, I told you I was
17 excited because they went through. The next morning I got up
18 and I thought, I've got all these -- I've got all these CDs. I
19 don't remember the exact amount, so I'm not going to say
20 amounts, because a lot of the amounts I'm seeing are differing
21 from what I have a recollection of. I haven't seen anything in
22 six months. I've been in jail, so --

23 Q You purchased the CDs --

24 A Yes.

25 Q -- the evening of July 5th and --

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Randall Keith Beane - Cross-Examination

1 A On the evening of July 5th, correct. The next
2 morning when I woke up, and I looked at my phone, it was kind
3 of like, I've got to wake up, this is really still here.

4 And so I called USAA to find out how I could go about
5 obtaining a line of credit against the CD. I didn't want to
6 cash the CD. I didn't even know I could cash the CD in at that
7 point. I thought that was not even an option. I thought I've
8 got to wait 30 days before I can spend any of this money. That
9 was my initial thinking.

10 Q And let me back you up to July 3rd.

11 A I wasn't home on July 3rd.

12 Q All right. So in July, early July, you were heavily
13 in debt, weren't you?

14 A No.

15 Q You had four auto loans that were -- that were
16 defaulted?

17 A I was not heavily in debt, no.

18 Q Okay. So you had four auto loans that amounted to
19 over \$50,000?

20 A Can I correct you on something?

21 Q Sure.

22 A I was not defaulted. I was in jail for three weeks,
23 and I wanted to make sure that my bills stayed paid. I was
24 looking in advance. I was not behind.

25 Q Okay. So you contacted USAA --

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Randall Keith Beane - Cross-Examination

1 A I did.

2 Q -- to defer payment on those?

3 A I sure did.

4 Q Okay. And do you agree that you were bouncing checks
5 during this time frame?

6 A Ma'am, I was not bouncing checks. I have -- I had so
7 many accounts doing automatic draft out of my bank account, and
8 I told you I was on the road a lot. Those automatic drafts
9 were coming out at times when I didn't realize it. They
10 weren't -- maybe sometimes my paycheck wouldn't be wired in at
11 exactly when I thought it would when an automatic draft would
12 come out, and so they're going to charge you.

13 Do you know they refunded every single one of those
14 NSF charges on my account, every single one of them?

15 Q So let me ask you this. So on July 3rd, you didn't
16 pay off those debts, those auto loans?

17 A Not on July 3rd, no, ma'am.

18 Q You didn't pay off any debts on July 3rd?

19 A No, ma'am.

20 Q Is that what you're saying?

21 A Yes, ma'am.

22 Q Do you remember Government's Exhibit 139?

23 A Yes, ma'am.

24 Q I was using the Elmo, but he can bring it up.

25 Government's Exhibit 139.

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Randall Keith Beane - Cross-Examination

1 All right. And so is this your Facebook page?

2 A It is.

3 Q Can you please expand where it says "Randy Beane" at
4 the top. All right. So this is in July of 2017?

5 A Yes, ma'am.

6 Q And then can you go over to the right-hand column
7 where it says Randy Beane in the thumbnail photo. Thank you.

8 And so what's the date on this post?

9 A July 3rd.

10 Q July 3rd. And what does it say?

11 A It says, "I just paid off all my debts with my trust
12 account. Ask me."

13 Q Okay. So it sounds like you did pay off your debts
14 on July 3rd?

15 A I didn't pay off anything on July 3rd, and I can
16 prove it.

17 Q Okay. Well, we'll -- we'll take what's in evidence,
18 which is the Facebook post.

19 How about the 5th, you purchased the CDs, they go
20 through 5th, 6th, and 7th. So you stated that you were the one
21 who made all the CD purchases?

22 A I did.

23 Q And you were accessing your trust account. Is that
24 correct?

25 A Yes.

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Randall Keith Beane - Cross-Examination

1 Q Based on information you received from the Internet?

2 A Yes.

3 Q From the Harvey Dent video?

4 A Correct.

5 Q And also in part with your extensive research, you
6 testified to --

7 A Correct.

8 Q -- into the straw man theory?

9 A Correct.

10 Q That your birth certificate is actually redeemable?

11 A Correct.

12 Q Also sometimes called the redemption theory?

13 A I don't know about that.

14 Q Okay. So was it your testimony that you learned that
15 the birth certificates, you can cash them in --

16 A No.

17 Q -- and they're valuable?

18 A No. That was not my testimony.

19 Q Okay. So then the straw man theory that the birth
20 certificate has some value to it?

21 A The birth certificate has value to someone. I don't
22 know if it has value to me, but it has value to someone because
23 it's printed on bank bond paper.

24 Q Okay. So in all your research into the straw man
25 theory and birth certificate theory, did you ever come across

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Randall Keith Beane - Cross-Examination

1 any Snopes articles?

2 A Any what?

3 Q Articles from Snopes.com?

4 A I have no idea what that is.

5 Q Okay. Wikipedia?

6 A I have no idea what that is.

7 Q So you have no idea what those websites are, but you
8 did extensive research --

9 A Yes.

10 Q -- into the theory?

11 A Yes.

12 Q You never came across a website that would have told
13 you the straw man theory is not a valid theory?

14 A No.

15 Q So you never came across in any of your research a
16 Snopes article saying that the straw man theory is false?

17 A I don't know what Snopes are.

18 Q Okay. You've never heard of Snopes.com?

19 A No, ma'am.

20 Q So your research on the Internet didn't lead you to
21 any websites that told you these theories were false?

22 A No.

23 Q Okay. And so your position is that you believed you
24 had a trust account?

25 A Yes.

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Randall Keith Beane - Cross-Examination

1 Q Okay. And that the trust account --

2 A Can I correct you? I believe we all have one.

3 Q So I have a trust account too?

4 A Yes, ma'am.

5 Q So let me ask you this. How much money is in your
6 trust account?

7 A I have no idea. I am unlimited value is -- if you're
8 unlimited, where -- how much is in it?

9 Q Okay. So are you the trustee of that trust account?
10 What do you understand a trust to be?

11 A We have a beneficiary, a trustee, and a fiduciary.

12 Q So who's the beneficiary of the trust?

13 A That's what I'd like to know.

14 Q So it's not you?

15 A Well, I thought it was that day.

16 Q So you thought you were the beneficiary of a trust?

17 A That day, yes.

18 Q And that you don't know who the trustee of the trust
19 is?

20 A Well, according to the factualized trust, I don't
21 understand -- I'm not a lawyer or an attorney, so I'm not going
22 to stand up here and tell you words about things that I have no
23 idea what I'm saying, but I don't understand how you would --
24 who a trustee is and -- I know that a beneficiary reached the
25 benefits, a trustee takes orders from the beneficiary on what

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 to do with the trust, and the fiduciary pays out. That's what
2 I know about a trust.

3 Q In all your research, you didn't research what a
4 trustee is or a beneficiary, or who controls the trust?

5 A The beneficiary reaps the benefits of the trust. The
6 trustee, in my understanding, is told by the beneficiary how to
7 carry out the orders of the beneficiary.

8 Q So the beneficiary under this theory tells the
9 trustee what to do and the trustee does it. Right?

10 A Yes. Pretty much.

11 Q So who's the trustee?

12 So how can you as the beneficiary control anything if
13 you can't go to the trustee, who makes the things happen?

14 A The documentation of the factualized trust, when I
15 saw that, it says original depository on it, the trustee, so
16 there was some questions I had, but I was just trusting that
17 everything legally was --

18 Q So let me ask you about this trust document.

19 A Yes.

20 Q Where did you get that trust document?

21 A From the IUUV website.

22 Q From the IUUV website?

23 A Yes.

24 Q Whose website is it to your understanding?

25 A BZ Riger, I think that's how you say her last name.

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 Q BZ Riger. And so she's an associate of Heather Ann
2 Tucci-Jarraf?

3 A She's a friend of all of us.

4 Q Okay. So she posted on that website a trust?

5 A Yeah.

6 Q And you believe that is your trust?

7 A They're our trusts.

8 Q All your trusts. So how does the money go into the
9 trust? Whose money is that?

10 A It's our money.

11 Q Okay. Did you put a deposit into the trust?

12 A It's energetic. We are the value.

13 Q So the --

14 A The money is created because we have value.

15 Q Well, okay. So in a typical trust, for example, you
16 might have a trust that's created for an heir. Right?

17 So, you know, father dies, leaves money in a trust
18 for the heirs, the children. And the children contact their
19 trustee when they need to access the fund. So in that
20 situation, would you agree that the money in that trust came
21 from an inheritance. Right?

22 A I wouldn't even associate the two -- the idea with
23 this trust.

24 Q So that's different. You can't compare the two?

25 A No.

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 Q So a trust exists without -- in your view, can a
2 trust exist without anyone making any deposit of money
3 anywhere?

4 A The trust is created from the value that we have as a
5 human being, energetically on this planet, and money is created
6 from -- here's my -- to go a little deeper, it's my
7 understanding that when you're born, there's an account created
8 that you're going to put so much value into the economy by
9 paying taxes.

10 Q Just by being born?

11 A By paying taxes, by working.

12 Q So did you pay -- would you pay taxes on this
13 \$30 million trust or \$30 million of trust funds?

14 A I didn't have time.

15 Q Okay. So do you pay taxes on any trust money?

16 A Not to my knowledge.

17 Q So you haven't had a trust since the day you were
18 born?

19 A I didn't know about it.

20 Q But it existed and money went into it?

21 A Yes.

22 Q Did you ever receive a statement from a bank saying,
23 "This is your trust"?

24 A Why would I? It's my understanding that you have
25 seven years from the time the trust is created to claim it.

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 Q And where did you hear that information?

2 A This is in general for a trust. Within seven years,
3 if you don't claim it, the original creator owns the trust. If
4 the original creator was the Federal Reserve, then the Federal
5 Reserve owns the trust.

6 Q So if the Federal Reserve owns the trust, you don't
7 own the trust. Correct?

8 A But Ms. Jarraf did documentation that you won't allow
9 me to mention that changed all that. That's what's missing in
10 this trial.

11 Q So you claim that there's some documentation that
12 says that when every human being is born -- is this just in the
13 United States?

14 A No, ma'am. This is worldwide.

15 Q Worldwide. Every human being worldwide --

16 A Yes, ma'am.

17 Q -- is born --

18 A Yes.

19 Q -- and if they had a birth certificate, the Federal
20 Reserve has money set aside for them for at least -- forever?

21 A I wouldn't say they set it aside for them, actually.
22 They steal our value from us.

23 Q The value of your energy?

24 A Yes.

25 Q Okay. All right. But you personally made no

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 deposits into a trust?

2 A I don't understand what you mean by I made no
3 deposits. If I'm the value, where's my deposit?

4 Q So you just have to exist to have value in a trust?

5 A Do you have any value?

6 Q I'd certainly like to think so.

7 A I'd like to think so too.

8 Q But -- so what you're saying is that me and everybody
9 else in the courtroom can go and access an infinite amount of
10 funds from the Federal Reserve?

11 A According to the paperwork that I've seen, yes.

12 Q And that's the paperwork you're relying on?

13 A I am.

14 Q Okay. And so if that's the case, then, let me ask
15 you this, if you have \$30 million in a trust account, and I'm
16 using \$30 million because that's the amount here, right, would
17 you have kept going? Would you have kept purchasing
18 certificates of deposit?

19 A Let me explain this. The reason that I kept going
20 was because I thought, well, where is the end, click, click,
21 click, click, click? And I told Heather at the time, I said,
22 "I don't know where to stop." I said, "Well, my mouse just
23 died, I guess that means I got to stop."

24 So, yes, I would have kept going, because I was
25 proving something that existed that had been covered up for

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 years.

2 Q So it's your theory that this -- the existence of
3 these trust accounts has been covered up for years?

4 A Yes.

5 Q So if that's the case then -- and you believed it's
6 rightfully yours, is that what you're saying?

7 A It's all of ours.

8 Q So if it's all of ours and we can access it any time,
9 then you purchased CDs instead of just cashing it. Right?

10 A Excuse me?

11 Q You purchased certificates of deposit instead of
12 taking in direct cash. Correct?

13 A Yes. Because at the -- that evening when I -- when I
14 was on the computer, people were trying to access -- they were
15 buying through PayPal, eBay.

16 Q And that wasn't working for them, was it?

17 A Yes, it was.

18 Q It was working for them in small amounts, large
19 amounts?

20 A It doesn't matter. It was working. It doesn't
21 matter if it's a penny. If the account clears, it clears.
22 Right? If it's a million dollars or a penny and it clears,
23 that means there's an account there.

24 Q Did other people use the purchase of certificate of
25 deposit?

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 A No. I was the only one -- I was the first one to do
2 that.

3 Q Okay. And was that your idea, Mr. Beane?

4 A Of course.

5 Q And so it was your idea to purchase the certificates
6 of deposit --

7 A Yes, ma'am.

8 Q -- instead of a direct payment?

9 A I don't understand what you mean by that.

10 Q A direct cash withdrawal from your trust, put it that
11 way.

12 A A direct cash withdrawal from my trust?

13 Q Uh-huh. Just like you would do with a withdrawal
14 from your bank account. Right?

15 A I bank online, so a direct cash withdrawal is not
16 possible the way I bank.

17 Q Okay. So you can transfer money into your account.
18 Right?

19 A Which is what I did.

20 Q Exactly. So if you did that -- but can you take
21 money from an account that is not your account?

22 A No.

23 Q So the fact that you were able to get money, at least
24 it made it look like you had money in your account, that, to
25 you, was enough?

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 A Yes.

2 Q So you're saying that you just thought it was your
3 money from that point forward?

4 A With the security protocol set in place with USAA,
5 yes, ma'am, that's exactly what I thought.

6 Q So you thought USAA gives you the credit for taking
7 withdrawal from what appeared to be the Federal Reserve and
8 some bank account number, right, which, as you said, you don't
9 dispute you did these, so it was your bank account -- the
10 funding bank account information in there?

11 A I didn't pull numbers out of thin air.

12 Q Right. You used your Social Security number.

13 A Yes.

14 Q And then your Social Security number with one digit
15 off. Correct?

16 A No, ma'am.

17 Q But the documentation from USAA said that.

18 A I don't care what the documentation has. That can be
19 altered.

20 Q Okay. You're saying that you didn't put a Trust2
21 into --

22 A Oh, I did do that. I labeled the account Trust2,
23 yes.

24 Q Okay. And so the Trust2 number was a different
25 number than your original trust number?

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 A What happened was, that evening when I did that, they
2 started changing routing numbers because so many people were
3 effective at getting into accounts. They started changing
4 routing numbers. They changed routing numbers three times that
5 afternoon.

6 Q Okay. So then after you get the deposits, and the
7 next day you said you were just shocked to see it's still in
8 your account?

9 A Yes.

10 Q All right. So then you quickly make purchases, don't
11 you?

12 A No.

13 Q You went -- that was -- I'm talking about July 6th.

14 A Can I finish?

15 Q You can finish.

16 A I haven't finished what I started explaining earlier.
17 The next morning when I got up and the money was still there, I
18 called USAA to find out how I could go about obtaining credit
19 against a certificate of deposit. I had no intention of
20 cashing a certificate of deposit. I didn't even know that was
21 an option.

22 The lady at USAA looked at my account, and she -- she
23 talked with me about my options. That should have been a
24 recorded phone call that should have been played in this
25 courtroom, but it wasn't.

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 She asked me what I wanted to do.

2 I said, "Well, I want to purchase some things."

3 She said, "What kind of things do you want to
4 purchase?"

5 I said, "Well, I want to buy me a truck, and I've
6 been looking at some coaches. I want to buy a coach" --

7 Q But --

8 A -- "for the purpose" -- can I finish, please?

9 THE COURT: Don't ask questions. Just -- in effect,
10 you need to make --

11 MR. BEANE: So US -- when I got on the phone --

12 THE COURT: Please, sir, let me finish.

13 MR. BEANE: Okay.

14 THE COURT: If you feel like you haven't answered the
15 question, then state an objection, you haven't answered the
16 question.

17 MR. BEANE: Okay.

18 THE COURT: And then I'll respond. So go ahead and
19 finish.

20 MR. BEANE: Okay. Thank you.

21 THE COURT: Go ahead.

22 MR. BEANE: When I was on the phone with USAA
23 inquiring as to what my options were in order to be able to use
24 against a certificate, not cash it in, she said she couldn't
25 think of any way. She said, "But you do have the option of

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 cashing it in."

2 I said, "I can do that?"

3 She said, "Yes."

4 I said, "Well --"

5 She said, "It might cost you a penalty."

6 I said, "How much is that penalty?"

7 She said, "Which one do you want to cash in?"

8 I said, "I don't know." I said, "Well, just --"

9 She said, "Do you want to try a \$500,000 one?"

10 I said, "Yeah, that's fine."

11 So at that point, I said, "Well, what's the fee to
12 cash a \$500,000 CD in?"

13 She said -- she came back and she "ch, ch, ch, ch,
14 ch," she said, "\$47."

15 I said, "Oh, that's all?"

16 BY MS. SVOLTO:

17 Q All right. So you decide to deposit the CDs into
18 your banking account. Correct?

19 A Yes. Yes.

20 Q All right. And then as soon as it hits your banking
21 account, you make some plans with that money. Right?

22 You purchase a truck on July 6th from Ted Russell
23 Ford. Correct?

24 You purchased a truck from Ted Russell Ford on
25 July 6th. Is that correct?

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 A I did.

2 Q Okay. And then you attempted to purchase that with a
3 check. Correct?

4 A I did.

5 Q And you gave that check to Ted Russell in exchange
6 for an \$86,000 truck?

7 A I did.

8 Q You got keys to that truck?

9 A I did.

10 Q You left with the truck?

11 A I did.

12 Q At some point on the 7th, you learned that USAA Bank
13 had frozen your accounts?

14 A No, ma'am.

15 Q You learned there was a problem with your accounts?

16 A Not on the 7th.

17 Q You did not learn that on the 7th?

18 A No, ma'am.

19 Q So that is not why you called Ted Russell Ford back
20 to change the arrangement of the payments?

21 A On the 7th?

22 Q On 7th or the 8th?

23 A No, that's not the reason.

24 Q Okay. So on July 7th, you learned that USAA as --
25 there is an issue with your account?

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 A Not on the 7th.

2 MS. SVOLTO: Just one second, Your Honor, please.

3 I'd like to ask David to play Government's
4 Exhibit 86.

5 THE COURT: Already been introduced?

6 MS. SVOLTO: It has already been introduced.

7 THE COURT: Go ahead.

8 MS. SVOLTO: All right. Government 86, in just a
9 second, we're going to play this.

10 And this Government Exhibit 86 was recorded on
11 July 7th, 2017.

12 (Audio played in open court; not reported.)

13 (Audio paused in open court.)

14 BY MS. SVOLTO:

15 Q So on July 7th, you find out your checking account is
16 unavailable?

17 A Ma'am, that is not the 7th. That is the 8th, on
18 Saturday. I'm in a restaurant --

19 Q Let's keep this --

20 A I'm in a restaurant when I made that call on the --
21 Saturday, the 8th, I've got friends in town who are sitting in
22 the restaurant waiting on me.

23 Q Mr. Beane, we're going to play the rest of this tape.

24 A You play it.

25 (Audio played in open court; not reported.)

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Randall Keith Beane - Cross-Examination

1 (Audio paused in open court.)

2 BY MS. SVOLTO:

3 Q Mr. Beane, you initiated that call to USAA --

4 A Yes.

5 Q -- Bank, is what you're saying?

6 A I did.

7 Q We clearly hear that. And you're saying you're at a
8 restaurant when you did this?

9 A I'm at a restaurant in a parking lot.

10 Q In a parking lot of a restaurant to initiate a call
11 on why your account is showing unavailable?

12 A Yes.

13 Q So you thought that was a good time to make a call
14 about this?

15 A Excuse me?

16 Q You thought that was a good time to make a call on
17 this while you're at a restaurant?

18 A I just found out. Yes, I'm going to make a call. I
19 want to know what's going on.

20 Q And so you seem just shocked in that audio. Right?

21 A Wouldn't you be?

22 Q Well, if \$30 million of money I put in there --

23 A Exactly.

24 Q Well, let's ask -- let me ask you another thing about
25 some of these recordings. In one of the recordings, you're

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 asked where the money came from. Right?

2 USAA asked you, I think it's this call, later on in
3 this very call, on July 7th, you're asked where the money came
4 from, where did you deposit the money from.

5 And do you remember your answers?

6 A Trust account.

7 Q You said trust account. They asked you which bank,
8 and you said you didn't know, it was in your briefcase.

9 A Yeah. It was in my briefcase. I had written it
10 down.

11 Q You didn't remember that it was the Federal Reserve?

12 A No, ma'am. It's not titled the Federal Reserve. It
13 has a name to it. It was clearinghouse or something. When you
14 type in the routing number, it automatically pulls up the bank
15 name on your computer. It did on mine. And so I had written
16 down that bank name, and it was in my briefcase. It was not
17 called the Federal Reserve Bank. It was called the New York
18 Clearinghouse or something like that.

19 Q Where did you get that routing number?

20 A From the Federal Reserve website.

21 Q So you went to the Federal Reserve website and that
22 was because of the Harvey Dent video?

23 A No. Actually, Harvey had the same -- what he was
24 showing was, you'd flip your Social Security card over, there's
25 a -- at the bottom, there's a letter and some numbers. He said

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 that letter represents the routing number. When you go to the
2 Federal Reserve website, you -- they list all these letters.
3 You pull -- you take -- you choose your letter that's on the
4 back of your card, and then you pick the routing number that
5 goes with that letter.

6 Well, his -- his number -- his letter actually
7 happened to be the same as mine. So I didn't even have to go
8 on the website. The letter was right there for me. The
9 routing number was right there for me.

10 Q So you get the routing number from the Federal
11 Reserve website?

12 A No. Actually, I got it from Harvey Dent's video.

13 Q Okay. So when you find out your account is
14 unavailable, you make some quick arrangements, don't you?

15 A Like what?

16 Q Like you go to Ted Russell Ford and ask them to
17 change the documents from Randall Beane to a trust?

18 A No, ma'am. That has nothing to do with the accounts
19 being closed. Ms. Jarraf, after I had purchased the coach,
20 Ms. Jarraf informed me that I should get --

21 Q This was before the coach, Mr. Beane.

22 A No, ma'am.

23 Q This was during the transaction at Ted Russell Ford.

24 A No, ma'am. I think I know when I did what I did.

25 The transaction for the truck was done on the -- on

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 the 6th -- no, the 5th. I can't remember. I've got the
2 paperwork over there.

3 Q So do we.

4 A Okay. Anyway, when I had done the coach purchase,
5 she suggested that I get the MCO because I'm paying cash.

6 Q When you say "she," you're talking about Heather Ann
7 Tucci-Jarraf. Correct?

8 A Yes, I am. Because whether you realize it or not,
9 the MCO goes to the state and the state actually owns your
10 vehicle, and the title is giving you use of the vehicle. You
11 don't actually own it with a title. You actually own it with
12 the MCO or the MSO, whatever they call it.

13 Q A title registration through the state is no good to
14 you, Mr. Beane?

15 A I'm not saying it's any good, but you -- that's the
16 reason the state can tax you on the vehicle is because the MCO
17 gives you full legal ownership. If you take the MCO to the
18 DMV, then they own it, they just give you a title to use it.
19 You don't own it. That's how come the state can take things
20 from you, because they actually own it, and they allow you to
21 use it.

22 Q According to you, if we have an MSO, right, the
23 manufacturer of the --

24 A Certificate of origin.

25 Q -- origin, if we have an MSO, we --

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 A Then you outright own it.

2 Q -- we outright own it and we don't have to pay state
3 tax?

4 A That's not my motive here.

5 Q So you want to make sure you own it and the state
6 can't tax you, though?

7 A I'm not saying that.

8 Q Okay. So, then, you make arrangements after talking
9 to your codefendant to change the trust document -- change the
10 purchase documents to a trust?

11 A Yes.

12 Q And you also make arrangements to cancel the check
13 and do a wire instead, don't you?

14 A Correct.

15 Q But that never happens, does it?

16 A No.

17 Q It doesn't happen, because USAA finds out --

18 A No.

19 Q -- they freeze your account. No?

20 A No, ma'am.

21 Q That's not what happens?

22 So on July 6th after Ted Russell Ford, you also go to
23 Buddy Gregg Motor Homes. Correct?

24 A Repeat the question, please.

25 Q After you make your initial purchase of the truck on

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 July 6th, you also go to Buddy Gregg Motor Home.

2 A I had been going to Buddy Gregg Motor Homes for a
3 while looking at coaches before I ever found Harvey Dent's
4 video.

5 Q So -- and before you came in to a trust fund worth
6 infinite --

7 A Yes.

8 Q -- amount of dollars?

9 A Yes.

10 Q Okay. And so you went to Buddy Gregg and you picked
11 out a motor coach. Right?

12 A No. Actually, I did not pick out a motor coach. I
13 went and looked at some coaches. I had been looking at some
14 coaches that weren't --

15 Q On July 6th, you went and picked out a motor coach?

16 A No, ma'am, I did not.

17 Q Okay. So on July --

18 A No, ma'am, I did not.

19 Q So on July 6th --

20 A Let me explain what I did.

21 THE REPORTER: Wait a minute. I need y'all to speak
22 one at a time, please.

23 THE WITNESS: Let me explain what I did. I went to
24 Buddy Gregg, I spoke to a fellow named Dan Lassetter. We spent
25 quite a bit of that evening together looking at coaches.

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 When -- when he -- when we finished up that afternoon, I feel
2 like I had made a new friend. We talked about how we got
3 along, how we just felt like we had known each other for a long
4 time. And I left that evening. I didn't make a decision on
5 any --

6 BY MS. SVOLTO:

7 Q You didn't make a decision --

8 A No, ma'am.

9 Q -- on July 6th?

10 A No, ma'am.

11 Q All right. We'd like to pull up a Government
12 Exhibit. Give me one second.

13 A So I'm going to finish talking while you're looking
14 for what you're looking for.

15 Q I haven't asked you a question yet.

16 A But I'm not finished explaining what I was
17 explaining.

18 THE COURT: Let's just wait for the next question.

19 MR. BEANE: All right.

20 MR. McGRATH: Your Honor, may I use this time to
21 approach Mr. Beane to explain some routine procedure while
22 they're looking at the documents?

23 THE COURT: Yes.

24 MS. TUCCI-JARRAF: May I use the restroom? I have an
25 issue to take care of.

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 THE COURT: Go ahead. We won't ask any questions
2 till you get back.

3 Any members of the jury need a restroom break? All
4 right. We'll take a two-minute break right here.

5 He wants to have some documents up with him.

6 Looks like we're ready to continue.

7 BY MS. SVOLTO:

8 Q Okay. Mr. Beane, now I'm showing you what has
9 already been admitted as Government's Exhibit 102. So you
10 stated you did not go and pick out a truck at Ted Russell Ford
11 on July 6th -- I'm sorry, excuse me, you did not pay a deposit
12 to Buddy Gregg on July 6th. Is that your testimony?

13 A That's not the question you asked me.

14 Q So on July 6th, 2017, did you go and pick out a motor
15 home and put down a deposit of \$10,000 to Buddy Gregg Motor
16 Home?

17 A There's two parts to that question. I did put down a
18 deposit, but I did not go to Buddy Gregg that day.

19 Q Okay. So you made a deposit on July 6th, you didn't
20 go on July 6th?

21 A No.

22 Q Okay. So Mr. Byrne, when he said you first came in
23 on July 6th --

24 A Was incorrect.

25 Q -- to make this -- okay. Great.

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Randall Keith Beane - Cross-Examination

1 So -- but can we highlight the receipt area on the
2 left-hand side?

3 Okay. So it does show a deposit for \$10,000?

4 A Correct.

5 Q Okay. But you weren't there that day, is what you're
6 saying?

7 A No, ma'am.

8 Q So you gave them that deposit on what day then?

9 A This 10,000?

10 Q Uh-huh.

11 A 7/6 at 17:42 in the afternoon.

12 Q Okay. And so on July 7th, you called to find out how
13 you can wire the money to Buddy Gregg. Correct?

14 A On July.

15 Q On July the 7th, you called USAA?

16 A Yes. Yes.

17 Q To wire money to Buddy Gregg?

18 A While I was eating breakfast, yes.

19 Q Okay. And then you wire \$493,000 -- \$493,110 to
20 Buddy Gregg?

21 A Correct. Actually, if I may expound on that, the
22 coach that I ended up purchasing was not the coach that I
23 originally thought that I had picked out.

24 Q All right. So on July 7th, when you wired the money
25 to Buddy Gregg and you purchased -- you complete the purchase

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Randall Keith Beane - Cross-Examination

1 of the coach, you fill out the purchase agreement paperwork.

2 Correct?

3 A On the 7th?

4 Q On July 7th.

5 A Correct.

6 Q And on July 7th, you also tell Buddy Gregg to change
7 the paperwork. Correct?

8 A Actually, when I got to the dealership on the 7th,
9 the paperwork was ready with Randy Beane on it.

10 Q And so you told them that it has to be changed.

11 Correct?

12 A Yes. Correct.

13 Q And needed to be changed and put into a trust name?

14 A Correct.

15 Q And you said that was on the basis of recommendation
16 from your attorney. Correct?

17 A Correct.

18 Q All right. So you consider your codefendant your
19 attorney. Is that correct?

20 A On this -- on the trust document, she's an attorney
21 for the trust document. She knows all about the trust.

22 Q Is she everyone's attorney on the trust document?

23 A She created the paperwork.

24 Q So is the trust document that you referred to earlier
25 and you're referring to now, are those the same document?

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Randall Keith Beane - Cross-Examination

1 A Excuse me?

2 Q The trust document that you've been referring to --

3 A The factualized trust.

4 Q The factualized trust, are those the same documents?

5 A That I'm referring to?

6 Q Right. You talked about having --

7 A No.

8 Q -- learning about the trust initially and then --

9 A No, there's other documents I'm not allowed to
10 mention.

11 Q And those are the documents that establish the trust,
12 you're saying?

13 A Correct.

14 Q So then we've got these trust documents that you
15 provided Buddy Gregg?

16 A Yes.

17 Q So these documents, though, don't show the origin of
18 the trust, do they?

19 A They reference the documents that we can't discuss in
20 court.

21 Q And -- all right. So then we've got on Buddy -- so
22 on July 7th, you go finish your purchase with Buddy Gregg, you
23 learn that your USAA account is unavailable. Correct?

24 A Not on the 7th, no.

25 Q So that call that we heard that was recorded on

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 July 7th, 2017 --

2 A That was the 8th. That was recorded on the 8th.

3 Q That's your testimony?

4 A That is my testimony, correct.

5 Q So USAA records are wrong there?

6 A Something is wrong, because I -- on the 7th, I was
7 going through the coach and I spent the night in the coach. I
8 never -- I wasn't in that restaurant on the 7th.

9 Q Okay. So -- so those USAA records are wrong.

10 And so you find out that the account is unavailable.

11 Do you then try and figure out -- like you said
12 earlier, you were surprised it worked?

13 A I was.

14 Q You were surprised that money got deposited into your
15 account?

16 A Yes.

17 Q You were surprised you were able to purchase 31 CDs
18 in a row?

19 A I was, yes.

20 Q You were surprised by that. You were surprised the
21 next morning when the money showed up in your account?

22 A I was.

23 Q So surprised that you almost immediately spent it?

24 A I didn't immediately spend it. I called USAA to find
25 out how I could get a line of credit against it.

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 Q So you call USAA to figure out how you're going to
2 use the money?

3 A Correct.

4 Q All right. And then that day, you make the
5 purchases, don't you?

6 A I purchased the truck that day.

7 Q And you make the deposit to Buddy Gregg that day?

8 A That afternoon, yes -- or that evening, I'm sorry.

9 Q All right. And you tried to get the MSOs to Ted
10 Russell Ford for the truck. Correct?

11 A That day, no.

12 Q But on the 7th or 8th, you go to Ted Russell Ford?

13 A Can I see a calendar, please?

14 Q Sure. I'm sorry, I don't have the calendar.

15 MS. DAVIDSON: Here it is.

16 BY MS. SVOLTO:

17 Q Here it is. Can we have the Elmo back? All right.

18 Okay. So on July 6th, you pay a down deposit with
19 Buddy Gregg, you purchase the \$86,000 truck?

20 A That receipt was for the 6th? Yes.

21 Q Okay. So then you get the M -- you attempt to get
22 the MSO from -- for the 2017 Ford truck on which day? What's
23 your testimony?

24 A On Saturday morning.

25 Q The 8th?

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 A No. Yes. Saturday morning.

2 Q Okay. So on July 8th, you attempt to get the MSO,
3 and Ted Russell Ford won't give you the MSO. Correct?

4 A No. I sat down and talked with the finance manager.
5 I don't remember talking with the guy that was here today about
6 that. I talked to the finance manager, and he understood
7 everything. I was going to bring the factualized trust in for
8 him to do the paperwork.

9 Q So it's your testimony that you did not go and ask
10 for the MSO on July 8th?

11 A I told him we needed to redo the paperwork with --
12 and do the MSO.

13 Q Okay. And so you do recall asking for the MSO as
14 opposed --

15 A Yes, I do actually recall asking for the MSO.

16 Q You asked for the MSO. And you asked for the MSO
17 that weekend?

18 A No. Not to take with me, no. I wanted to make sure
19 all the paperwork was done correctly before I ever got the MSO.
20 I was not asking for anything that wasn't due to me.

21 Q That wasn't due to you?

22 A Correct.

23 Q Okay. But you have infinite value?

24 A So do you.

25 Q All right. But the truck, you had to get the -- you

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 had to wait until it was in the trust name?

2 A Correct.

3 Q Even though you had cash in the trust.

4 You'd gotten the money from the trust. Right?

5 It's your testimony the money came from a trust
6 account being held at the Federal Reserve. Correct?

7 Is that your testimony?

8 A Yes.

9 Q So the money came from an account at the --

10 A An account held in trust.

11 Q Held in trust. Then why did you need to put the
12 truck and the motor home -- why did it have to be registered in
13 a trust name? Why can't it be registered to Randy Beane or
14 Randall Beane?

15 A According to speaking with Heather, she said that
16 that was the best way to do trust documents when you're doing
17 things with a trust, so I was just trusting that that was the
18 right way, correct way to do it, and it made sense what she
19 explained to me.

20 Q Okay. It made sense when she explained it?

21 A Yes.

22 Q And so it's your understanding that it just needs to
23 be in a trust. That's your understanding?

24 A Yes.

25 Q And that makes sense to you?

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 A Yes.

2 Q A vehicle has to be named in a trust?

3 A Yes.

4 Q And that's the best way to do it?

5 A Yes.

6 Q Okay. And so at this point, you know that your funds
7 are not available?

8 A At what point?

9 Q At what point? You know on July 7th?

10 A No, ma'am.

11 Q According to USAA records and the recording we just
12 heard, you find out on July 7th, 2017?

13 A No, ma'am.

14 Q On July 8th and 9th, you changed purchase agreements?

15 A No, ma'am.

16 Q You changed documents?

17 A No, ma'am.

18 Q On 7th, 8th, and 9th, you do?

19 A No, ma'am.

20 Q You're saying that that's not the case?

21 A That is correct, I'm saying that's not the case.

22 Q Okay. And so -- all right. So let's go to the
23 morning of July 10th.

24 A Okay.

25 Q All right. You are aware that there is a problem

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 with your account?

2 A I am aware at that point in time.

3 Q Okay. You didn't hear anything about your account
4 before July 10th?

5 A On July 8th when I was at the restaurant, I made the
6 call to USAA, that that's when I discovered a problem, which
7 was Saturday night.

8 Q Okay. And so on the 10th, you for sure know there's
9 something with your account. And so -- so then you decide to
10 get Heather Ann Tucci involved even more. You two decide
11 you've got to make some phone calls, you've got to clear all
12 this up. Right?

13 A Correct.

14 Q You clear it up by getting on a big conference call
15 to see what's going on. Correct?

16 A Actually, if I may, I got a phone call first thing
17 Monday morning from Buddy Gregg, from Mr. Forbes or Mr. Byrne,
18 I'm not sure which one it was.

19 He said, "Mr. Beane, I just got a phone call from
20 somebody saying they were you, who wanted to reverse the wire
21 transfer."

22 Q Mr. Byrne didn't testify to anything like that, did
23 he?

24 A I'm -- I'm testifying to what I heard on my end of
25 the phone call.

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 Q Okay. So let me ask you this. If -- if -- so your
2 testimony is that on July 10th, you thought everything should
3 be just fine with the purchase of that motor home. Is that
4 your testimony, that there were no issues with the funds in
5 your account on July 10th?

6 A That is not my testimony.

7 Q That everything you'd heard from USAA Bank was wrong,
8 that the fact that your account being unavailable --

9 A No, ma'am, that's not what I'm saying.

10 Q Okay. And so on July 10th, there's a conference call
11 to clear everything up. Correct?

12 A There's a conference call to start an investigation
13 on the problem.

14 Q Okay. And so on July 10th, there's a conference call
15 between you, Tucci-Jarraf, and --

16 A Brad Cohen.

17 Q -- Buddy Gregg, folks at Buddy Gregg. Brad Cohen
18 comes on later, doesn't he?

19 A Yes.

20 Q Initially, it's you and Mr. Byrne?

21 A Mr. Forbes.

22 Q And there's someone else there, right, who's
23 recording your call while you're at Buddy Gregg. And Heather's
24 in Texas. Correct?

25 A Correct.

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 Q And you were headed to Texas with the motor home,
2 weren't you?

3 A At that point in time, I wasn't headed anywhere.

4 Q Okay. So you never mentioned you were going to Texas
5 to anyone?

6 A Not that morning, no.

7 Q You never mentioned you were planning to head out
8 west?

9 A Not that morning, no.

10 Q And so then after this conference call, or during the
11 conference call, there's an attempt to contact USAA Bank, isn't
12 there?

13 During the conference call, you-all attempt to
14 contact USAA Bank?

15 A Yes. Yes, that's right.

16 Q And then just when it starts ringing to get somebody,
17 you hang up, don't you?

18 A I'm not on the phone. Mr. Byrne was the one dialing
19 the number. It wasn't me. We were on my phone.

20 Q And so on the call, you're direct -- there's a
21 direction to hang up the call.

22 And then you talk to Lauren Palmisano with Whitney
23 Bank. Correct?

24 Or I guess you talk to Brad Cohen first. Right? You
25 don't remember that?

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 A I don't remember who came on first. I thought they
2 were all on -- came on at the same time. Everybody was to be
3 on the call. Nothing was to be discussed without everybody on
4 the call.

5 Q Okay. Except for USAA. They weren't on the call.
6 They weren't on the call, were they?

7 A No, they weren't on the call.

8 MS. SVOLTO: Thank you. Could I have just a second,
9 please, Your Honor?

10 BY MS. SVOLTO:

11 Q So on July 10th, after the conference call, right,
12 you take some steps after July 10th to prepare to go, don't
13 you, to prepare to leave?

14 A To go to Texas?

15 Q Or wherever.

16 A To go to Texas, yes.

17 Q Okay. So you were preparing to go to Texas on
18 July 10th?

19 A To USAA.

20 Q To USAA Bank to clear it up?

21 A Yes.

22 Q Better to do that than have them on the phone.
23 Right?

24 A There is no branch here in Tennessee. As a matter of
25 fact, it's an online banking source.

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 Q That's right.

2 A Whose main office is in San Antonio, Texas.

3 Ms. Tucci-Jarraf was in Houston, and I thought it would be best
4 if we went -- if I went and picked her up and went straight to
5 San Antonio and take care of the problem immediately.

6 Q Okay. And so the plan was to go to Texas and take
7 care of this problem?

8 A Yes, ma'am.

9 Q And you know they've been calling you?

10 A No, ma'am.

11 Q You've had conversations with USAA?

12 A Yes, I have.

13 Q So you know that there's an issue with your account?

14 A Yes.

15 Q You know that you took a risk in taking the money
16 from the Federal Reserve account using that Harvey Dent video
17 instructions, didn't you? You knew there was a risk that it
18 wouldn't work?

19 A No, ma'am. I said I trusted the security protocols
20 of USAA. I did not feel a risk at that point in time when I
21 took the money, no.

22 Q So you thought if you get away with it, it's going to
23 be fine, it's your money. If it goes into your account, it's
24 your money. If USAA stops you from -- from it coming into your
25 account, then you don't get it. Right?

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 A Excuse me, repeat the question.

2 Q So you think that when the money shows up in your
3 account, that it's yours to use because USAA didn't stop it
4 from going into your account?

5 A Can I -- can I elaborate on this answer a little bit
6 to explain a little bit more?

7 THE COURT: Go ahead.

8 MR. BEANE: When 9/11 happened and the banking
9 protocols, the Patriot Act --

10 THE COURT: Hold on a second. Let's -- elaborate on
11 your answer --

12 MR. BEANE: I am.

13 THE COURT: -- but try to answer that question
14 directly.

15 MR. BEANE: I am. The Patriot Act increased security
16 protocols for banking industry, I guess, after 9/11. And so --

17 BY MS. SVOLTO:

18 Q And this has to do with your answer to my question --

19 A It sure does, yes.

20 Q -- to whether you believe the money was in your
21 account --

22 A Yes, ma'am, it does.

23 Q -- that meant it was yours?

24 A Yes.

25 Q Yes, you believe that?

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 A I believe --

2 Q If the money is in your account --

3 A Okay. Can I please finish?

4 After 9/11 when the security protocols were highly --
5 from my understanding, Basel III was the protocol for banks
6 to -- for the security for their deposits, for things like that
7 to be handled, and I understood that it -- terrorism changed
8 this country in a way that banking was made more secure. A
9 terrorist -- if a terrorist can access this account this easy,
10 and --

11 Q Are you a terrorist, Mr. Beane?

12 A No, ma'am, I'm not saying I'm a terrorist.

13 Q So --

14 A I'm saying if it's that easy to access an account
15 that's not yours, that you're using your account numbers for,
16 then we've got a serious problem here.

17 Q I'd say so. I think you have a serious problem,
18 Mr. Beane.

19 So you're saying that because the money -- I'm going
20 to ask my question again. You've been allowed to explain your
21 answer. And now I'm going to ask you the yes-or-no question.

22 A All right.

23 Q Do you believe that because the money went into your
24 account and showed up online in your account, that it was your
25 money?

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 A I do.

2 Q Okay. So the fact that it was there meant it was
3 yours?

4 A Exactly.

5 Q Even though you knew you were taking a risk by trying
6 this instructional video idea?

7 A I didn't feel like I was taking a risk with the
8 security protocols.

9 Q You didn't feel like you were taking a risk?

10 A No.

11 Q But you said you knew that -- you were certainly
12 surprised?

13 A I was surprised.

14 Q You were surprised. But it wasn't a risk, you
15 expected it, though?

16 A If it cleared, yes.

17 Q But you didn't expect it to clear, did you?

18 A No, I didn't expect it to clear.

19 Q Because it's not your money, is it, Mr. Beane?

20 A It's actually not about the money.

21 Q Let's talk more about July 11th now.

22 A Talk about it.

23 Q So July 10th, you were ready to go to Texas, and on
24 July 11th, you go to pick up the RV. Right?

25 A Yes. Actually, I go to take the factualized trust to

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 Mr. Byrne.

2 Q That's right. You were going to give another copy of
3 the factualized trust. Right?

4 A Yes.

5 Q And the factualized trust has a red thumbprint?

6 A Yes. That's biometrics.

7 Q Biometric, so that it's certainly your thumbprint?

8 A That's correct.

9 Q So just signing the trust documents and having it
10 notarized wouldn't be enough?

11 A No.

12 Q Why do you need a red dyed thumbprint?

13 A That's your energetic signature.

14 Q Oh, okay. And so who instructed you to do that?

15 A Ms. Jarraf -- Tucci-Jarraf.

16 Q Where did you get the copies of the red dyed
17 thumbprint?

18 A That's not a copy.

19 Q Where -- where did you get the document you provided
20 to Buddy Gregg?

21 A From Ms. Tucci-Jarraf.

22 Q So she gave it to you?

23 A She -- she drafted the documents. I took the
24 documents and had them notarized at the office supply store.

25 Q Okay. And so you had it notarized there. And who

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 instructed you to use a red dyed thumbprint?

2 A There -- she told me to use blue ink, because the
3 document's printed in black, use blue ink for the signature and
4 red for the thumbprint, because in days gone past, when they
5 used to sign letters, they used their -- they use their blood,
6 so it represents blood, the red does.

7 Q Okay. So a green thumbprint wouldn't be sufficient?

8 A No.

9 Q That's not biometric?

10 A No. Well, I guess you could, but it's representative
11 of the blood to use red.

12 Q All right. So on July 11, you're in your motor
13 coach, you've got the motor running. Right?

14 A Okay.

15 Q Right. So you've got the motor home running. You've
16 told everyone about your purchase. Right?

17 A No, I don't agree with that.

18 Q You didn't tell everyone that you had bought a motor
19 home and ready to go?

20 A Who's everyone?

21 Q I guess the public that can view your Facebook page.

22 A That's not everyone.

23 Q Okay. So you publicly announced on Facebook that you
24 bought a motor home. Correct?

25 A I showed a picture of it, said this --

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 Q Okay. Let's bring it up. Government Exhibit 144,
2 please. It's already been admitted.

3 All right. So here's your Facebook post. Correct?

4 A Correct.

5 Q And you're talking about traveling with the motor
6 home?

7 A I just said earlier that I travel a lot for my job,
8 yes.

9 Q So you know it's on Facebook that you've got a motor
10 home?

11 A Correct.

12 Q You post photos of it?

13 A Yes.

14 Q That's on July 9th?

15 A Correct.

16 Q And you're getting ready to go?

17 A No, ma'am.

18 Q You don't get ready to travel?

19 A Not on the 9th.

20 Q Okay. But you do post, "Let's get ready to travel"
21 in the Facebook post. Correct?

22 A I travel for my job, yes.

23 Q Okay. So travel for whatever reason?

24 A Exactly.

25 Q All right. So on July 11th, you're getting ready to

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 travel, but at this point, you know you're traveling to Texas?

2 A Correct.

3 Q All right. And in -- and in the motor home, are
4 you -- you're in the driver's seat in the motor home when FBI
5 approaches you?

6 A I am.

7 Q All right. You were getting ready to go, weren't
8 you?

9 A No, ma'am.

10 Q And you wouldn't come out of the motor home when they
11 came to get you?

12 A They knocked on the door. I'm on the telephone
13 trying to figure out what's going on.

14 Q With what?

15 A With Ms. --

16 Q As far as you know, the money was in your account, so
17 you're good. Right?

18 A It had nothing to do with the money.

19 Q So what did you think was wrong?

20 A I didn't know.

21 Q You had no idea?

22 A No, ma'am.

23 Q You're telling us you had no idea there was something
24 wrong with the money that was used to purchase the motor
25 home --

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 A Yes, ma'am.

2 Q -- on July 11th, you had no idea?

3 A I didn't know what was going on at the current
4 moment.

5 Q Okay. So who are you on the phone with?

6 A Ms. Tucci-Jarraf.

7 Q You just happened to call her up at the moment you
8 thought something was happening?

9 A No. I was on the phone with her letting her know
10 that I had delivered the trust -- factualized trust document to
11 the dealership, and that I was on my way to Texas to come and
12 get her, as soon as we could get loaded and ready.

13 Q Okay. And so FBI comes and you don't want to open
14 the door, do you?

15 A I'm on the telephone.

16 Q So you can't open the door when you're on the
17 telephone?

18 A Not when I'm in the middle of discussing something
19 and I don't understand what's going on outside the door.

20 Q Okay. And so you don't think to end the phone call
21 and find out what's going on, do you? You don't think to do
22 that? Is that your testimony?

23 A Okay. The door was open and they -- they told me
24 that I had a warrant for my arrest out of Jasper, Colorado.

25 Q So you knew at that point there was a warrant out for

UNITED STATES DISTRICT COURT

Randall Keith Beane - Cross-Examination

1 your arrest, and they were there because of the warrant for
2 your arrest?

3 A They said there was a warrant for my arrest out of
4 Jasper, Colorado. And I'm trying to discuss with them I've
5 never been to Colorado.

6 Q Uh-huh.

7 A And they're telling me that it doesn't matter, I'm
8 going -- I'm under arrest. So I'm trying to let these guys
9 know that there's no arrest warrant for me in Jasper, Colorado.
10 I've never been. They're saying I'm a fugitive of a place I've
11 never been. Wouldn't you refuse? Would you just give up and
12 go with someone when they're telling you you've been somewhere
13 you've never been?

14 Q Well, I'm not answering the questions.

15 A Okay.

16 Q So you're being told there's a warrant for your
17 arrest. You disagree that there's a warrant?

18 A Yes, I do.

19 Q You disagree there's a warrant in general or just a
20 warrant out of Colorado?

21 A I disagree there's a warrant in general.

22 Q So you think there was no warrant for your arrest?

23 A Yes, ma'am.

24 Q I'd like to show you, the witness and defense only,
25 what's now been marked as -- oh, they're not in the system, but

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Randall Keith Beane - Cross-Examination

1 I'll have to put a sticker on, excuse me.

2 This will be Government Exhibit 165.

3 Do you see that document?

4 A Yes, I see that.

5 Q Okay. All right. So you see that there?

6 A Yes.

7 MS. SVOLTO: I'd like -- I'd like to move to admit
8 this as an exhibit, please, Exhibit 165.

9 THE COURT: Any objections?

10 MS. TUCCI-JARRAF: Not from me.

11 MR. BEANE: No objections.

12 THE COURT: All right. So admitted.

13 (Government's Exhibit 165 admitted into evidence.)

14 BY MS. SVOLTO:

15 Q Can you read the top of that, please?

16 A "State of South Carolina, County of Jasper, Bench
17 Warrant, failure to appear, the State versus Randal Keith
18 Beane."

19 Q All right. If we could scroll down to the bottom of
20 the page, right under the word "Witness."

21 Oh, I guess I'm in charge, now, huh. This is all
22 going to go badly.

23 So can you read the date down there, please?

24 A April 17th, 2015.

25 Q So you would agree with me that this is a warrant.

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Randall Keith Beane - Cross-Examination

1 Correct?

2 A It appears to be.

3 Q All right. What's the name there on that warrant?

4 A "Randal Keith Beane."

5 Q All right. And so --

6 A It's a miscorrect spelling.

7 Q A miscorrect spelling. All right. And then it says

8 "State of South Carolina"?

9 A Yes.

10 Q "County of Jasper"?

11 A Correct.

12 Q All right. So you were told you had a warrant out
13 for your arrest, and your testimony just now is that there was
14 no warrant for you?

15 A Correct.

16 Q All right. So this warrant, which, again, I'll refer
17 to the date at the bottom there, April 17, 2015.

18 A Correct.

19 Q You're saying that this warrant doesn't exist?

20 A It didn't until the 10th of July or -- it was --
21 actually, let me rephrase it. It didn't until the 13th of
22 July.

23 Q Okay. So the date on there is fabricated. Is that
24 your testimony?

25 A Could be. I don't know. But it didn't exist until

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Randall Keith Beane - Cross-Examination

1 July 13th of 2017.

2 Q Is that because you hadn't seen a paper copy of it?

3 A Never seen anything.

4 Q All right. But -- so they -- they come -- the FBI
5 comes, tells you that there's a warrant for your arrest?

6 A Out of Jasper, Colorado.

7 Q Okay. So there's a warrant for your arrest, and you
8 refused to open the door?

9 A No. The door had to be open for me to talk to them.

10 Q And, in fact, you didn't -- you instructed your
11 friends who were in the RV not to open the door. Isn't that
12 true?

13 A I didn't say nothing about my friend opening the door
14 or not, because immediately when they came up, he opened the
15 door. I was on the phone with Ms. Tucci-Jarraf. I had no
16 option to say anything to anyone. I was talking to her.

17 Q You never screamed at them not to open the door?

18 A No.

19 Q Okay. So rather than figure things out with FBI,
20 you're on the phone with Codefendant Tucci-Jarraf?

21 A I was on the phone with her before the FBI showed up.

22 Q And you stay on the phone with her for a while. Is
23 that your testimony?

24 When do you hang up with her?

25 A When they come into the coach and start telling me to

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Randall Keith Beane - Cross-Examination

1 give up my phone and stuff, I mean, it becomes a scuffle, and
2 me trying to explain that I don't have a warrant out of Jasper,
3 Colorado, and they didn't want to hear it.

4 Q All right. And so you continue to scuffle with the
5 agents, don't you?

6 A No, I do not.

7 Q You continue to scuffle with them until you get all
8 the way to the ground, don't you?

9 A No, I do not.

10 Q Because, in fact, you were resisting the arrest --

11 A No, ma'am, I was not.

12 Q -- based on a warrant?

13 A No, ma'am.

14 Q You disagreed with the warrant, so you -- and you
15 resisted arrest?

16 A No, ma'am, I did not.

17 Q You weren't resisting arrest?

18 A No.

19 Q Okay. So if USAA Bank had not allowed the money to
20 go in your account, it's your position that, okay, it didn't
21 work. Right?

22 A Right.

23 Q And then I'm -- if the money didn't end up in your
24 account, you wouldn't insist that you had a trust account. Is
25 that true?

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Randall Keith Beane - Cross-Examination

1 A No, no, no. That's not true.

2 Q So you'd still have a trust account, but you weren't
3 able to access it unless USAA lets you access it?

4 A No. That's not true either.

5 Q All right. So then if USAA had told you that it was
6 a mistake, and USAA is working with you to figure out the
7 mistake, you would not have returned any of the money?

8 A That's not true.

9 Q But USAA was telling you there was mistakes, weren't
10 they, that there was something going on?

11 A That's why I was on my way to USAA to talk to them.

12 Q But you were used to talking to USAA by phone,
13 weren't you?

14 A They closed my account. I couldn't access my
15 accounts. Couldn't get on the phone.

16 Q Okay. But the phone call on July 7th is after your
17 account is --

18 A No, ma'am. You keep referring to the 7th. I never
19 knew anything on the 7th.

20 Q All right. So is it still your position that this
21 warrant that's now Government Exhibit 165 did not exist back --

22 A It is, yes.

23 Q Okay. So is it your testimony that this warrant
24 could never have been confirmed?

25 A Yes.

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Randall Keith Beane - Cross-Examination

1 MS. SVOLTO: Okay. I'd like to show the witness what
2 has been marked as Exhibit 166. Actually, I'll withdraw the
3 offer. I don't want to introduce 166. I strike that, if
4 possible.

5 BY MS. SVOLTO:

6 Q Okay. So after --

7 THE COURT: Let me interrupt for a moment. Sounds
8 like you've got a little bit more cross left.

9 MS. SVOLTO: Very little, Your Honor.

10 THE COURT: All right. Go ahead.

11 Why don't we do this. I don't want to let the
12 jury -- I don't think we're going to get done with this
13 witness. Do you have cross to do, Ms. Tucci-Jarraf?

14 MS. TUCCI-JARRAF: Yes, sir.

15 THE COURT: All right. I'm going to let the jury go
16 a little bit early today, get a head start on the weekend.

17 So let me say this. You've heard the government's
18 case, you're hearing Defendant Mr. Beane's case, you'll still
19 hear, if she wants to present evidence, Ms. Tucci-Jarraf's
20 case, so you have not heard all the evidence in this case, nor
21 the Court's charge, or the closing argument, so continue to
22 keep an open mind as you hear the evidence in this case.

23 Continue not to discuss this case among yourselves or
24 with anyone else. To the extent there may be any media reports
25 about this case, do not read them, refrain from reading them or

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1 listening to any reports. So just put the case aside.

2 And I do appreciate your being here all four day this
3 week. I told you we may have to come back next week, and
4 obviously we do. Monday morning, I may talk with the parties a
5 little bit more and give you a little better indication Monday
6 when I think you may get the case.

7 But with that being said, on everyone's behalf, I
8 appreciate your attention paid to this case this week, and
9 we'll see everybody back here Monday, which is January 29th, at
10 9:00 a.m. Jury is excused.

11 (Jury out at 4:28 p.m.)

12 THE COURT: Mr. Beane, you can walk back over.

13 MR. BEANE: Thank you.

14 THE COURT: All right. Everyone be seated just a
15 moment. Couple things. We'll pick back up Monday morning.
16 The government can finish its cross. Ms. Tucci-Jarraf is a
17 codefendant. She does have the right for cross-examination as
18 well.

19 And then, Mr. Beane, if you desire after
20 cross-examination, you would have the opportunity in the same
21 fashion that you did your direct to give a -- you've seen the
22 redirect of the government's witnesses.

23 MR. BEANE: Yes, ma'am -- I mean, yes, sir. I'm
24 sorry.

25 THE COURT: You'll be able to give a redirect, if you

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1 want, and then there would be a limited opportunity for
2 recross. This could change, I understand, but as of now, I
3 anticipate you would rest your case at that point?

4 MR. BEANE: Yes.

5 THE COURT: And then we would allow Ms. Tucci-Jarraf
6 to give opening statement, if she desires, and then to present
7 any evidence that she wishes.

8 Before we leave, I think a request was made through
9 Mr. McGrath to have -- we -- we -- to have a copy of the draft
10 jury charge and verdict form, so I'm going to get --

11 MR. McGRATH: Yes, I was just hoping to send one with
12 Mr. Beane, so when I visit him on Sunday --

13 THE COURT: So we're not going to give, not for
14 reproduction, but my law clerk will give both of the defendants
15 hard copies of the draft jury charge.

16 You need to read through those, because as I told you
17 at the conclusion of the evidence, which may not come on
18 Monday, but at the conclusion of the case, of everybody's
19 cases, you know, we'll have a charge conference. So I will
20 ask -- I will go through the draft jury charge and the draft
21 verdict form and see if anybody -- any of the parties have any
22 questions about these proposed jury charge.

23 When you read through them, you'll see there's some
24 options depending on, for example, if the defendant elects to
25 testify, use this charge, if the defendant elects not to

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1 testify, use this charge. But a lot of those are standard
2 charges. So -- but we'll go through them and finalize them in
3 a charge conference at the conclusion of the cases.

4 Ms. Tucci-Jarraf, you filed, and it was placed under
5 seal, an ex parte motion this morning that was filed, and
6 handed to you only is an order that's placed under seal in
7 response to your ex parte motion, so that's been given to you
8 as well. So you don't have to find that on the system, but it
9 has been entered on the system. I don't have it in front of
10 me, but it's got --

11 MS. TUCCI-JARRAF: Is that what the young gentleman
12 just handed me?

13 THE COURTROOM DEPUTY: 108.

14 THE COURT: Document 108 that the law clerk just gave
15 to you along with the jury charge, so you alone have that
16 additional document.

17 MS. TUCCI-JARRAF: Thank you.

18 MS. DAVIDSON: Your Honor, I unfortunately have not
19 had an opportunity to look at the draft charge. Based on the
20 testimony of Mr. Beane, the government does request the Court
21 look at pattern jury instruction Sixth Circuit 2.09.

22 THE COURT: Okay. We'll do that --

23 MS. DAVIDSON: Thank you.

24 THE COURT: -- between now and Monday as well.

25 And that would be an opportunity -- that's a good

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1 point. At the charge conference, all the parties will have the
2 opportunity to state whether they have any issues with what the
3 Court has put in the draft charge, and will also have the
4 opportunity if they desire to say, I think as Ms. Davidson is
5 suggesting, there's a charge that's not in there that we would
6 like the Court to consider.

7 So that's what the charge conference is about so
8 everyone knows. All right?

9 We'll see everybody -- or some or all of us back here
10 on Monday.

11 THE COURTROOM DEPUTY: All rise.

12 THE COURT: Excuse me just a moment.

13 MR. LLOYD: One question. Last night, your excellent
14 law clerk sent out digitally a copy of the charge and the
15 proposed verdict, which I then printed for myself and for
16 Ms. Tucci-Jarraf.

17 Is what was distributed just now a second draft or --

18 THE COURT: That's the same thing, since they didn't
19 get one electronically and Mr. McGrath asked for a hard copy.
20 I thought you might have done that, but in the event you
21 hadn't, we provided a hard copy, but it's the same thing.

22 MR. LLOYD: Thank you.

23 THE COURTROOM DEPUTY: This honorable court shall
24 stand in recess until Monday, January 29th.

25 (Proceedings recessed at 4:32 p.m.)

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CERTIFICATE OF REPORTER

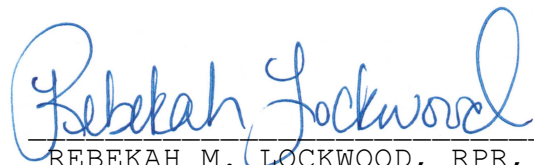
STATE OF TENNESSEE

COUNTY OF KNOX

I, Rebekah M. Lockwood, RPR, CRR, do hereby certify that I was authorized to and did stenographically report the foregoing proceedings; and that the foregoing pages constitute a true and complete computer-aided transcription of my original stenographic notes to the best of my knowledge, skill, and ability.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand at Knoxville, Knox County, Tennessee this 22nd day of April, 2018.



REBEKAH M. LOCKWOOD, RPR, CRR
Official Court Reporter
United States District Court
Eastern District of Tennessee